

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

THE STATE OF WISCONSIN,

vs.

ETHAN ALLEN HITCHCOCK, Sec-
retary of the Interior.

In Equity.

*To the Honorable Chief Justice and Associate Justices of the
Supreme Court of the United States sitting in Equity.*

Now comes the State of Wisconsin, by its Attorney General, L. M. Sturdevant, and T. W. Spence, special counsel, and moves the court that the State of Wisconsin be permitted to file its bill of complaint in equity against Ethan Allen Hitchcock, Secretary of the Interior of the United States, but a citizen and resident of the State of Missouri, as a cause of which this court has original jurisdiction under Section 2 of Article 3 of the Constitution of the United States and under an Act of Congress of the United States passed March 2, 1901, and that upon filing thereof a subpoena shall issue as provided by Rule 12 of the Rules of Practice in Equity.

The State of Wisconsin, by

L. M. STURDEVANT,

Attorney General.

T. W. SPENCE,

Of Counsel.

IN THE SUPREME COURT OF THE UNITED STATES.

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*To the Honorable Chief Justice and Associate Justices of the
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The State of Wisconsin, by its Attorney General, L. M. Sturdevant, and T. W. Spence, special counsel, by leave of court first had and obtained, files this, its bill of complaint, against Ethan Allen Hitchcock, who is Secretary of the Interior of the United States, and who is a citizen of the State of Missouri.

And whereupon your orator complains and says:

I.

That in and by Section 7 of an Act of Congress of the United States to ENABLE THE PEOPLE OF WISCONSIN TERRITORY TO FORM A CONSTITUTION AND STATE GOVERNMENT AND FOR THE ADMISSION OF SUCH STATE INTO THE UNION, approved August 6, 1840, it was enacted as follows:

"Section 7. And be it further enacted that the following propositions are hereby submitted to the convention which

shall assemble for the purpose of forming a constitution for the State of Wisconsin for acceptance or rejection; and if accepted by said convention and ratified by an article in said constitution, they shall be obligatory on the United States.

1. That Section numbered 16 in every township of the public lands in said state, and where such section has been sold or otherwise disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to said state for the use of schools."

That on February 1, 1848, the constitutional convention of the people of said territory, duly called in accordance with said enabling act of congress, adopted a constitution which was thereafter duly ratified by vote of the people of said territory on the 2d day of March, 1848, in accordance with the provisions of the enabling act aforesaid and the provisions of said constitution.

That in and by Section 2 of Article 2 of said constitution all of the propositions of the enabling act of congress aforesaid were accepted, ratified and confirmed, including the provisions of Section 7 thereof hereinbefore set forth.

II.

That following the adoption of said constitution by an act of congress of the United States, approved May 29, 1848, said State of Wisconsin was duly admitted into the Union on equal footing with the original states in all respects whatsoever, with the following boundaries, to-wit: Beginning at the north-east corner of the State of Illinois, that is to say, at a point in the center of Lake Michigan, where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence running with the boundary line of the State of Michigan through Lake Michigan, Green Bay, to the mouth of the Menominee River; thence up the channel of said river to the Brule River; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule in a direct line to the center of the channel between Middle and South Islands,

in the Lake of the Desert; thence in a direct line to the headwaters of the Montreal River, as marked upon the survey made by Captain Cramm; thence down the main channel of the Montreal River to the middle of Lake Superior; thence through the center of Lake Superior to the mouth of the Saint Louis River; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the river Saint Croix; thence down the main channel of the said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the State of Illinois; thence due east with the northern boundary of the State of Illinois to the place of beginning.

III.

That by virtue of the enabling act aforesaid and the acceptance of its provisions in the constitution of the State of Wisconsin and the admission of said state into the Union, said State of Wisconsin acquired the fee in Section 16 in all the lands belonging to the United States at the time of the admission of said state into the Union and theretofore surveyed, and the right to the fee in Sections 16 in all lands so owned by the United States whenever and as soon as the same should be surveyed.

IV.

That prior to the 28th day of March, 1843, almost the entire northern half of the state, including the lands lying between Lake Superior on the north, Green Bay and Fox River on the east, the latitude of Plover Portage on the Wisconsin River on the south and the Mississippi River on the west, was unceded Indian land occupied in the main by various branches of the tribe of Chippewa Indians and in a lesser part by the tribes of Menomonees and Winnebagoes.

V.

That on the 28th day of March, 1843, a treaty was made and concluded at La Pointe, on Lake Superior, in the then territory of Wisconsin, between the said Chippewa Indians and Robert Stuart, commissioner on the part of the United States, a copy of which is as follows:

“Article 1. The Chippewa Indians of the Mississippi and Lake Superior **cede to the United States** all the country within the following boundaries, viz.: Beginning at the mouth of Chocolate River of Lake Superior; thence northwardly across said lake to intersect the boundary line between the United States and the Province of Canada; thence up said Lake Superior to the mouth of the St. Louis or Fond du Lac River, (including all the islands in said lake); thence up said river to the American Fur Company's trading-post, at the southwardly bend thereof, about twenty-two miles from its mouth; thence south to intersect the line of the treaty of 29th of July, 1837, with the Chippewas of the Mississippi; thence along said line to its southeastwardly extremity, near the Plover Portage on the Wisconsin River; thence northeastwardly, along the boundary line, between the Chippewas and Menomonees, to its eastern termination, (established by the treaty held with the Chippewas, Menomonees and Winnebagoes; at Butte des Morts, August 11, 1827), on the Skonawby River of Green Bay; thence northwardly to the source of the Chocolate River; thence down said river to its mouth, the place of beginning; it being the intention of the parties to this treaty to include in this cession all the Chippewa lands eastwardly of the aforesaid line running from the American Fur Company's trading-post, on the Fond du Lac River, to the interesection of the line of the treaty made with the Chippewas of the Mississippi, July 29th, 1837.

Article 2. The Indians stipulate for the right of hunting on the ceded territory, with the other usual privilege of occupancy, until required to remove by the President of the United States, and that the laws of the United States shall be continued in

force, in respect to their trade and intercourse with the whites, until otherwise ordered by Congress.

Article 3. It is agreed by the parties to this treaty, that whenever the Indians shall be required to remove from the ceded district, all the unceded lands belonging to the Indians of Fond du Lac, Sandy Lake, and Mississippi bands shall be the common property and home of all the Indian party to this treaty.

Article 4. In consideration of the foregoing cession, the United States engage to pay to the Chippewa Indians of the Mississippi and Lake Superior, annually, for twenty-five years, twelve thousand five hundred (12,500) dollars in specie, ten thousand five hundred (10,500) dollars in goods, two thousand (2,000) dollars in provisions and tobacco, two thousand (2,000) dollars for the support of two blacksmiths' shops, (including pay of smiths and assistants, and iron, steel, etc.,) one thousand (1,000) dollars for the pay of two farmers, twelve hundred (1,200) dollars for pay of two carpenters, and two thousand (2,000) dollars for the support of schools for the Indians party to this treaty; and further the United States engage to pay the sum of five thousand (5,000) dollars as an agriculture fund, to be expended under the direction of the Secretary of War. And also the sum of seventy-five thousand (75,000) dollars shall be allowed for the full satisfaction of their debts within the ceded district, which shall be examined by the commissioner to this treaty, and the amount to be allowed decided by him, which shall appear in a schedule hereunto annexed. The United States shall pay the amount so allowed within three years.

Whereas, the Indians have expressed a strong desire to have some provision made for their half-breed relatives, therefore it is agreed that fifteen thousand (15,000) dollars shall be paid to said Indians, next year, as a present, to be disposed of as they together with their agent, shall determine in council.

Article 5. Whereas the whole country between Lake Superior and the Mississippi has always been understood as belonging in common to the Chippewas, party to this treaty; and

whereas the bands bordering on Lake Superior have not been allowed to participate in the annuity payments of the treaty made with the Chippewas of the Mississippi, at St. Peters, July 29, 1837, and whereas all the unceded lands belonging to the aforesaid Indians are hereafter to be held in common, therefore, to remove all occasions for jealousy and discontent, it is agreed that all the annuity due by said treaty as also the annuity due by the present treaty, shall henceforth be equally divided among the Chippewas of the Mississippi and Lake Superior, party to this treaty, so that every person shall receive an equal share.

Article 6. The Indians residing on the Mineral district shall be subject to removal therefrom at the pleasure of the President of the United States.

Article 7. This treaty shall be obligatory upon the contracting parties when ratified by the President and Senate of the United States.

Proclaimed March 28, 1843."

VI.

That in compliance with Article 4 of said treaty, the United States paid the consideration for said lands so ceded, in strict accordance with the stipulations therein contained, to-wit: An aggregate sum of money and merchandise amounting to eight hundred and sixty thousand dollars, and all the title of said Indians in and to said lands was thereupon and thereby extinguished except a mere temporary right of occupancy.

VII.

That by the terms of the treaty aforesaid the said Chippewa Indians released to the United States prior to the passage of the enabling act of congress aforesaid and to the adoption of the constitution of the State of Wisconsin and the acceptance of the school land grant therein contained by said state, all of their claims to said lands and each and every part thereof, and

ceded the same to the United States; and the State of Wisconsin became vested with an absolute right in and to all the sections Sixteen, within said territory, subsequently surveyed by the United States, with the right in said State as against the United States, to have the temporary possession or occupancy of the Indians aforesaid terminated by the United States.

VIII.

That all of townships 46, 47 and 48, of ranges 1, 2, 3 and 4 west, within the State of Wisconsin, as they now exist, and as they have existed since the admission of Wisconsin into the United States, lie within and are a part of the territory ceded by said Chippewa Indians by and under said treaty of 1843.

IX.

That on and prior to the 29th day of January, 1855, the township lines of said townships 46, 47 and 48, ranges 1, 2, 3 and 4 west, had been duly surveyed by the United States into townships, although the particular sections within said townships and ranges had not been run. That thereby the said townships had been definitely located and surveyed within the meaning of said enabling act and the acceptance thereof and within the rules and regulations of the Land Department of the United States in such case made and provided, and that the same had thereby become definitely known and recognized as public lands and the right to the fee thereof in sections 16 of the several townships and ranges aforesaid definitely secured to the State of Wisconsin under the Enabling Act and Acts of Congress and Indian treaty aforesaid.

X.

That on or about the 30th day of September, 1854, a treaty was made and concluded by Henry C. Gilbert and David B. Harriman, commissioners, on the part of the United States, and

the Chippewa Indians of Lake Superior and Mississippi, which treaty was proclaimed January 29, 1855, and of which the following is a copy:

FRANKLIN PIERCE, President of the United States of America, to all and singular to whom these presents shall come, greeting:

WHEREAS, a treaty was made and concluded at LaPointe, in the State of Wisconsin, on the thirtieth day of September, eighteen hundred and fifty-four, by Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and head-men, which treaty is in the words following, to-wit:

Articles of a treaty made and concluded at LaPointe, in the State of Wisconsin, between Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and head-men.

Article 1. The Chippewas of Lake Superior hereby cede to the United States all the lands heretofore owned by them in common with the Chippewas of the Mississippi, lying east of the following boundary line, to-wit: Beginning at a point where the east branch of Snake River crosses the southern boundary-line of the Chippewa Country, running thence up the said branch to its source, thence nearly north, in a straight line, to the mouth of East Savannah River, thence up the St. Louis River to the mouth of East Swan River, thence up the East Swan River to its source, thence in a straight line to the most westerly bend of Vermillion River, and thence down the Vermillion River to its mouth.

The Chippewas of the Mississippi hereby consent and agree to the foregoing cession, and consent that the whole amount of the consideration money for the country ceded above shall be paid to the Chippewas of Lake Superior, and in consideration thereof the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi all their interest in and claims

to the lands heretofore owned by them in common, lying west of the above boundary line.

Article 2. The United States agrees to set apart and withhold from sale, for the use of the Chippewas of Lake Superior, the following described tracts of land, viz.:

1st. For the L'Anse and Vieux De Sert bands, all the unsold lands in the following townships in the State of Michigan: Township fifty-one north, range thirty-three west; township fifty-one north, range thirty-two west; the east half of township fifty north, range thirty-three west; the west half of township fifty north, range thirty-two west; and all of township fifty-one north, range thirty-one west, lying west of Huron Bay.

2d. For the LaPointe Band, and such other Indians as may see fit to settle with them, a tract of land bounded as follows: Beginning on the south shore of Lake Superior, a few miles west of Montreal River, at the mouth of a creek called by the Indians Ke-che-se-be-we-she, running thence south to a line drawn east and west through the center of township forty-seven north, thence west to the west line of said township, thence south to the southeast corner of township forty-six north, range thirty-two west, thence west the width of two townships, thence north the width of two townships, thence west one mile, thence north to the lake shore, and thence along the lake shore, crossing Shag-waw-me-quon Point, to the place of beginning. Also two hundred acres on the northern extremity of Madeline Island, for a fishing ground.

3d. For the other Wisconsin bands, a tract of land lying about Lac De Flambeau, and another tract on Lac Court Orielles, each equal in extent to three townships, the boundaries of which shall be hereafter agreed upon or fixed under the direction of the President.

4th. For the Fond du Lac bands, a tract of land bounded as follows: Beginning at an island in the St. Louis River, above Knife Portage, called by the Indians Paw-paw-seo-me-metig, running thence west to the boundary line heretofore described, thence north along said boundary line to the mouth of the Savannah River, thence down the St. Louis River to the

place of beginning. And if said tract shall contain less than one hundred thousand acres, a strip of land shall be added on the south side thereof large enough to equal such deficiency.

5th. For the Grand Portage Band, a tract of land bounded as follows: Beginning at a rock a little east of the eastern extremity of Grand Portage Bay, running thence along the lake shore to the mouth of a small stream called by the Indians Maw-ske-gwaw-caw-maw-se-be, or Cranberry Marsh River, thence up said stream, across the point to Pigeon River, thence down Pigeon River to a point opposite the starting point, and thence across to the place of beginning.

6th. The Ontonagon band and that subdivision of the La Pointe band of which Buffalo is chief may each select, on or near the lake shore, four sections of land, under the direction of the President, the boundaries of which shall be defined hereafter. And being desirous to provide for some of his connections who have rendered his people important services, it is agreed that the chief Buffalo may select one section of land, at such place in the ceded territory as he may see fit, which shall be reserved for that purpose, and conveyed by the United States to such person or persons as he may direct.

7th. Each head of a family, or a single person over twenty-one years of age at the present time, of the mixed bloods, belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land, to be selected by them under the direction of the President, and which shall be secured to them by patent in the usual form.

Article 3. The United States will define the boundaries of these reserved tracts, whenever it may be necessary, by actual survey, and the President may, from time to time, at his discretion, cause the whole to be surveyed, and may assign to each head of a family or single person over twenty-one years of age eighty acres of land for his or their separate use; and he may at his discretion, as fast as the occupants become capable of transacting their own affairs, issue patent therefor to such occupants, with such restrictions of the power of alienation as he may see fit to impose. And he may also, at his discretion,

make rules and regulations respecting the disposition of the bands in case of the death of the head of a family or a single person occupying the same, or in case of its abandonment by them. And he may also assign other lands in exchange for mineral lands, if any such are found in the tracts herein set apart. And he may also make such changes in the boundaries of such reserved tracts or otherwise as shall be necessary to prevent interference with any vested rights. All necessary roads, highways and railroads, the lines of which may run through any of the reserved tracts, shall have the right of way through the same, compensation being made therefor as in other cases.

Article 4. In consideration of and payment for the country hereby ceded, the United States agrees to pay to the Chippewas of Lake Superior, annually, for the term of twenty years, the following sums, to-wit: Five thousand dollars in coin; eight thousand dollars in goods, household furniture and cooking utensils; three thousand dollars in agricultural implements and cattle, carpenter's and other tools, and building materials, and three thousand dollars for moral and educational purposes, of which last sum three hundred dollars per annum shall be paid to the Grand Portage band, to enable them to maintain a school at their village. The United States will also pay the further sum of ninety thousand dollars, as the chiefs in open council may direct, to enable them to meet their present just engagements. Also, the further sum of six thousand dollars in agricultural implements, household furniture, and cooking utensils, to be distributed at the next annuity payment among the mixed bloods of said nation. The United States will also furnish two hundred guns, one hundred rifles, five hundred beaver traps, three hundred dollars' worth of ammunition, and one thousand dollars' worth of ready made clothing, to be distributed among the young men of the nation at the next annuity payment.

Article 5. The United States will also furnish a blacksmith and assistant, with the usual amount of stock, during the continuance of the annuity payments, and as much longer as the President may think proper, at each of the points herein set

apart for the residence of the Indians, the same to be in lieu of all the employes to which the Chippewas of Lake Superior may be entitled under previous existing treaties.

Article 6. The annuities of the Indians shall not be taken to pay the debts of individuals, but satisfaction for the depredations committed by them shall be made by them in such manner as the President may direct.

Article 7. No spirituous liquors shall be made, sold, or used on any of the lands herein set apart for the residence of the Indians, and the sale of the same shall be prohibited on the territory hereby ceded, until otherwise ordered by the President.

Article 8. It is agreed, between the Chippewas of Lake Superior and the Chippewas of the Mississippi that the former shall be entitled to two-thirds, and the latter to one-third, of all benefits to be derived from former treaties existing prior to the year 1847.

Article 9. The United States agree that an examination shall be made and all sums that may be found equitably due to the Indians, for arrearages of annuity or other thing, under the provisions of former treaties, shall be paid as the chiefs may direct.

Article 10. All missionaries, and teachers, and other persons of full age, residing in the territory hereby ceded, or upon any of the reservations hereby made by authority of law, shall be allowed to enter the land occupied by them at the minimum price whenever the surveys shall be completed to the amount of one-quarter section each.

Article 11. All annuity payments to the Chippewas of Lake Superior shall hereafter be made at L'Anse, LaPointe, Grand Portage, and on the St. Louis River; and the Indians shall not be required to remove from the homes hereby set apart for them. And such of them as reside in the territory hereby ceded shall have the right to hunt and fish therein, until otherwise ordered by the President.

Article 12. In consideration of the poverty of the Bois Forte Indians, who are parties to this treaty, they having never re-

ceived any annuity payments, and of the great extent of that part of the ceded country owned exclusively by them, the following additional stipulations are made for their benefit. The United States will pay the sum of ten thousand dollars, as their chiefs in open council may direct, to enable them to meet their present just engagements. Also, the further sum of one thousand dollars, in five equal annual payments in blankets, cloth, nets, guns, ammunition and such other articles of necessity as they may require.

They shall have the right to select their reservation at any time hereafter under the direction of the President; and the same may be equal in extent, in proportion to their numbers, to those allowed the other bands, and be subject to the same provisions.

They shall be allowed a blacksmith, and the usual smith-shop supplies, and also two persons to instruct them in farming, whenever in the opinion of the President it shall be proper, and for such length of time as he shall direct.

It is understood that all Indians who are parties to this treaty, except the Chippewas of the Mississippi, shall hereafter be known as the Chippewas of Lake Superior; **Provided**, That the stipulation by which the Chippewas of Lake Superior relinquishing their right to land west of the boundary-line shall not apply to the Bois Forte band, who are parties to this treaty.

Article 13. This treaty shall be obligatory on the contracting parties, as soon as the same shall be ratified by the President and Senate of the United States.

Proclaimed January 29, 1855.

XI.

That in and by the terms of said treaty the said Chippewa Indians ceded to the United States the lands described in Article 1 of said treaty, lying within the boundaries of the present state of Minnesota, and not including therein any of the land embraced in the treaty of March 28, 1843, hereinbefore set forth.

XII.

That by Subdivisions 2 and 3 of Article 2 of said treaty the United States agreed to set apart and withhold from sale for the use of certain bands of the Chippewas of Lake Superior, the lands described in or provided for in such subdivision. That all of the lands which the United States thereby agreed to so set apart for the La Pointe band and such other Indians as might see fit to settle with them and for the other Wisconsin bands, included and embraced lands covered by said treaty of 1843, and lands in which the State of Wisconsin had under the enabling act and its state constitution, and the treaty with said Indians of 1843, become entitled to every sixteenth section to be thereafter surveyed therein.

XIII.

That in and by the terms of Article 3 of the foregoing treaty of 1854, the power was expressly reserved to the United States to make changes in the boundaries of the tracts so reserved for said several bands of Indians, or otherwise as might be necessary to prevent interference with any vested rights.

XIV.

That under the enabling act of congress aforesaid and its state constitution, and under and in view of the cession of the Chippewa Indians contained in said treaty of 1843, the right to all of the lands surveyed and to be surveyed as section 16 of the various townships in the territory covered by said treaty, vested in the State of Wisconsin, and has ever since the admission of said state into the Union, been claimed by it.

XV.

That of the lands provided by Subdivision 2 of Article 2 of said treaty of 1855, to be set apart by the United States for the La Pointe band and others of said Chippewa Indians, the township line of township 47, range 1 west, had been surveyed by the United States in the year 1847, and the township lines of all of the other townships mentioned in said subdivision were surveyed by the United States in the months of June and July, 1852. That thereafter, beginning in the year 1855, and extending to the months of June and July, 1873, the various townships mentioned in said subdivisions were surveyed and re-surveyed into sectional subdivisions, and thereafter, up to the filing of said bill, the lines of said reservation have been drawn and outlined so as to include all of townships 46 and 47 north, ranges 2 and 3 west, sections 4 to 9 inclusive, and sections 16 to 18 inclusive, in township 47 north, of range 1 west, sections 17 to 21 and 27 to 36 inclusive, in township 48 north, of range 2 west, all of section 48, range 3 west, lying south and east of Lake Superior, and sections 24 and 25 and 36 of township 48 north, of range 4 west, in accordance with the existing United States surveys.

That a plat of said lands reserved or provided to be reserved, under said treaty of 1854 to said La Pointe band of Indians is hereto annexed and made a part of this bill.

XVI.

That said State of Wisconsin has at all times heretofore since its admission to the Union, claimed a right to the fee of all lands in sections 16 in the several townships within said reservation, and since the sectional survey thereof by the United States has claimed the actual fee in said sections, and has exercised dominion and ownership over the same, and has issued

sundry and divers patents to divers persons and corporations to portions thereof, sundry of which persons and corporations, grantees of the state as aforesaid, have also exercised acts of ownership, and have paid the taxes and made improvements thereon, and have cut and hauled timber therefrom until forbidden by orders of the defendant, Ethan Allen Hitchcock, as Secretary of the Interior of the United States, as hereinafter more particularly mentioned.

XVII.

That under the treaty of 1854 aforesaid, and in carrying out its provisions, the said Secretary of the Interior has proceeded, through the United States Indian Department, to allot from time to time, to the various members of said tribe of La Pointe band of Indians, eighty acres per capita of lands within said reservation, and has caused patents therefor to be issued to the members of said tribe as individuals, and such members as have become full citizens of the United States and have terminated their tribal relations and have ceased to occupy said reservation, or any material part thereof in common. That the lands within said reservation, exclusive of the land in sections 16 are sufficient to secure to each individual Indian entitled thereto, eighty acres thereof in severalty, as provided in said treaty. That neither the Department of the Interior of the United States nor the Indian Department division thereof has, at any time heretofore, attempted to allot or recognized allotments or selections upon any section 16 within said reservation in favor of any member of said tribe of Indians, and said tribe of Indians have for many years before the filing of this bill, ceased to occupy or use any of sections 16 under claim of right under said treaty or otherwise.

XVIII.

That beginning about the year 1899, and from thence hitherto, the defendant, Ethan Allen Hitchcock, as Secretary of the Interior, and the Commissioner of the Indian Office of the United States, and divers agents and servants under them, have set up on behalf of said La Pointe band of Indians, or the members thereof, a claim of interest or title in and to sections 16 aforesaid in the reservation townships aforesaid, paramount and adverse to the title of the State of Wisconsin, and have claimed and continue to claim that said sections 16 are still held by the United States in trust for said Indians to the same extent as other lands in said reserved townships, and have forbidden purchasers of such lands holding patents from the state to enter or make improvements or cut any timber thereon, and have thereby cast a cloud upon the title of the state and its grantees to said lands, and have interfered with, and are continuing to interfere with the use and enjoyment of the same by the owners thereof.

XIX.

That said lands so in dispute between the complainant State of Wisconsin, and the defendant Ethan Allen Hitchcock as Secretary of the Interior of the United States, acting on behalf of said Indians, amount in the aggregate to about thirty-eight hundred and forty (3840) acres of a market value of over fifty thousand (\$50,000) dollars. That by Chap. 95 of the Laws of the State of Wisconsin for the year 1903, approved April 20, 1903, the Attorney General of the State of Wisconsin was duly authorized to institute proceedings in this court under the provisions of the act of congress passed March 2, 1901, and

hereinbefore referred to, to determine the rights of said state to what are commonly known as school lands, within any reservation or Indian cession within said state, where any Indian tribe claims any right to or interest in said lands, or to the disposition thereof by the United States, and particularly to determine the title of the lands embraced within sections sixteen in the several townships constituting the present Bad River or La Pointe, and the Flambeau Indian reservations within said state.

In consideration whereof, and for as much as your orator is remediless in the premises, and can have no adequate relief except in this court; and to the end therefore, that the defendant may, if he can, show why your orator should not have the relief prayed, and to the end that the defendant may make full, true, direct and perfect answer to the matters hereinbefore stated and charged, but not under oath, answer under oath being expressly waived; and to the end that the title of your orator to the lands hereinbefore described and referred to, and that the title to said lands be decreed to be in your orator, and to the end that the defendant, his officers, servants and employes, and the officers, servants and employes of the said Department of which he is the official head, be restrained by injunction issuing out of this court, from in any manner interfering with the use, possession or enjoyment of any part of said lands, or of interfering with the exercise by your orator, or its grantees, of acts of ownership of said lands.

May it please Your Honors to grant unto your orator not only a writ of injunction, conformably to the prayer of this bill, by a writ of subpoena issuing out of, and under the seal of this Honorable Court, directed to the defendant Ethan Allen Hitchcock, Secretary of the Interior of the United States, commanding him under a certain penalty to be therein inserted, on a day certain to be and appear and answer (but not under oath) to this bill of complaint, and to further stand to and abide such

order and decree as shall be made herein agreeably to equity and good conscience.

And your orator will ever pray.

L. M. STURDEVANT,
Attorney General of Wisconsin.

T. W. SPENCE,
Of Counsel for State of Wisconsin.

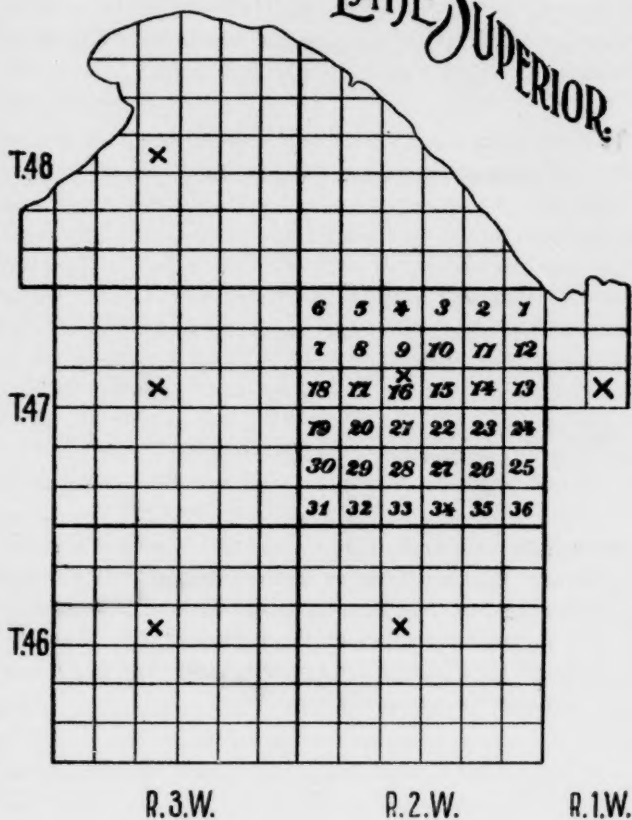
UNITED STATES OF AMERICA, }
STATE OF WISCONSIN, } ss.
COUNTY OF DANE. }

Personally appeared before me the undersigned, L. M. Sturdevant, who being sworn in the foregoing cause, on oath says he is the Attorney General of the State of Wisconsin, and as such directed the filing of the foregoing bill. That all of the facts set forth in said bill are true to the best of his knowledge, information and belief.

Sworn to and subscribed before me this
day of *March* A. D. 1904.



LAKE SUPERIOR.



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Office Supreme Court U. S.
FILED

FEB 27 1905

JAMES H. MCKENNEY,
Clerk.

No. _____

IN THE SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

No. **12** ORIGINAL.

THE STATE OF WISCONSIN

vs.

ETHAN ALLEN HITCHCOCK, SECRETARY OF THE INTERIOR.

IN EQUITY.

AMENDED BILL.

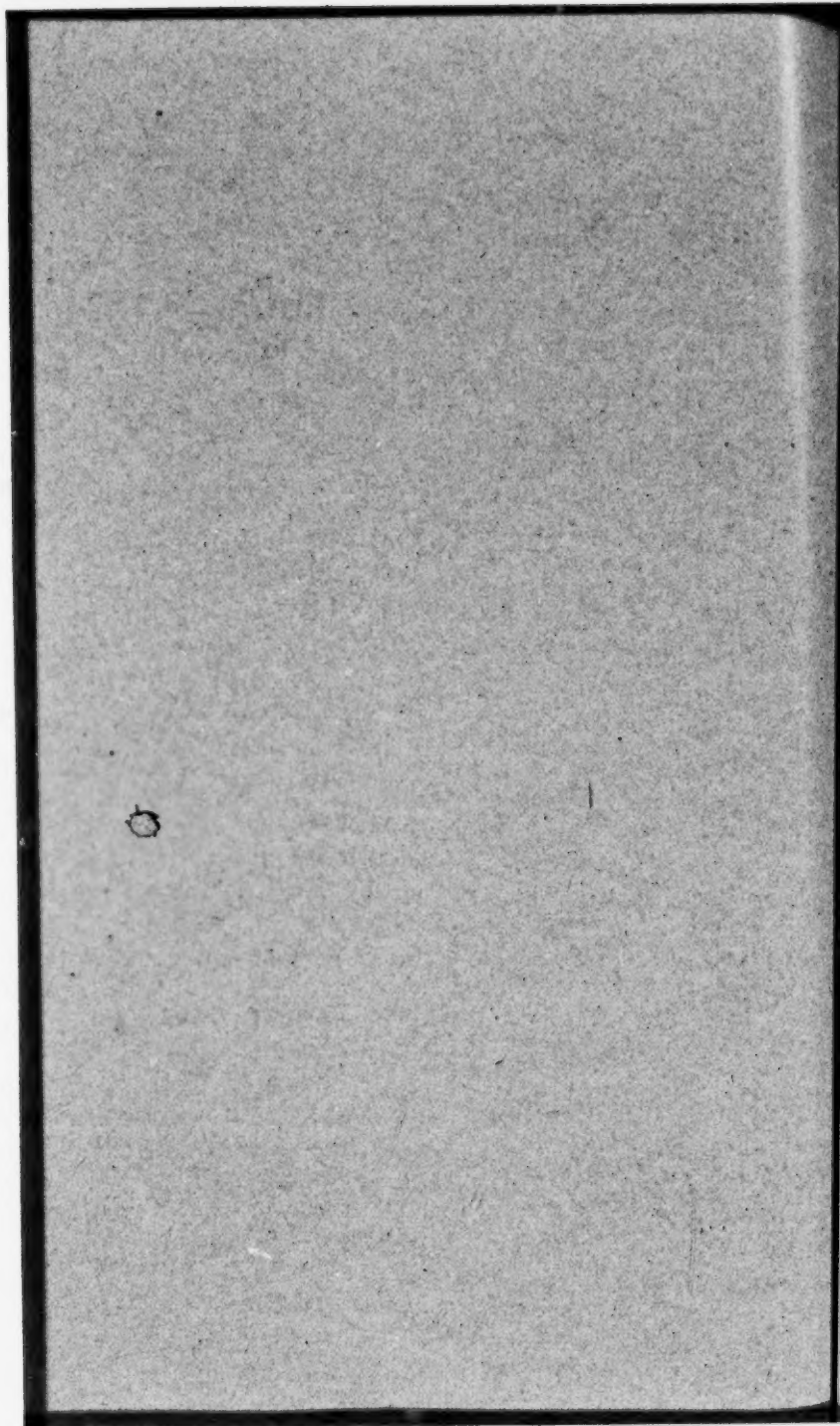
STATE OF WISCONSIN,

BY

L. M. STURDEVANT, ATTORNEY GENERAL OF WISCONSIN.

T. W. SPENCE, OF COUNSEL,

MILWAUKEE, WIS.



In the Supreme Court of the United States

OCTOBER TERM, 1904.

THE STATE OF WISCONSIN,

VS.

ETHAN ALLEN HITCHCOCK,

SECRETARY OF THE INTERIOR.

IN EQUITY.

*To the Honorable Chief Justice and Associate Justices
of the Supreme Court of the United States Sitting in
Equity:*

The State of Wisconsin, by its Attorney General, L. M. Sturdevant, and T. W. Spence, special counsel, by leave of Court first had and obtained, files this, its amended bill of complaint, against Ethan Allen Hitchcock, who is Secretary of the Interior of the United States, and who is a citizen of the State of Missouri.

And whereupon your orator complains and says:

I.

That in and by Section 7 of an Act of Congress of the United States to ENABLE THE PEOPLE OF WISCONSIN TERRITORY TO FORM A CONSTITUTION AND STATE GOVERNMENT AND FOR THE ADMISSION OF SUCH STATE INTO THE UNION, approved August 6, 1840, it was enacted as follows:

“Section 7. And be it further enacted that the following propositions are hereby submitted to the conven-

tion which shall assemble for the purpose of forming a constitution for the State of Wisconsin for acceptance or rejection; and if accepted by said convention and ratified by an article in said constitution, they shall be obligatory on the United States.

1. That section numbered 16 in every township of the public lands in said state, and where such section has been sold or otherwise disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools."

That on February 1, 1848, the constitutional convention of the people of said territory, duly called in accordance with said enabling act of congress, adopted a constitution which was thereafter duly ratified by vote of the people of said territory on the 2d day of March, 1848, in accordance with the provisions of the enabling act aforesaid and the provisions of said constitution.

That in and by Section 2 of Article 2 of said constitution all of the propositions of the enabling act of congress aforesaid were accepted, ratified and confirmed, including the provisions of Section 7 thereof hereinbefore set forth.

II.

That following the adoption of said constitution, by an act of congress of the United States, approved May 29, 1848, said State of Wisconsin was duly admitted into the Union on equal footing with the original states in all respects whatsoever, with the following boundaries, to-wit: Beginning at the northeast corner of the State of Illinois, that is to say, at a point in the center of Lake Michigan, where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence running

with the boundary line of the State of Michigan through Lake Michigan, Green Bay, to the mouth of the Menominee River; thence up the channel of said river to the Brule River; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule in a direct line to the center of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the headwaters of the Montreal River, as marked upon the survey made by Captain Cramm; thence down the main channel of the Montreal River to the middle of Lake Superior; thence through the center of Lake Superior to the mouth of the Saint Louis River; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the river Saint Croix; thence down the main channel of the said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the State of Illinois; thence due east with the northern boundary of the State of Illinois to the place of beginning.

III.

That by virtue of the enabling act aforesaid and the acceptance of its provisions in the constitution of the State of Wisconsin and the admission of said State into the Union, said State of Wisconsin acquired the fee of Sections 16 in all the lands belonging to the United States at the time of the admission of said State into the Union and theretofore surveyed, and the right to the fee in Sections 16 in all lands so owned by the United States whenever and as soon as the same should be surveyed, within the whole of the territory hereinbefore described.

IV.

That prior to the 28th day of March, 1843, almost the entire northern half of the above territory and of the present boundaries of the State of Wisconsin, including the lands lying between Lake Superior on the north, Green Bay and Fox River on the east, the latitude of Plover Portage on the Wisconsin River on the south and the Mississippi River on the west, was *unceded* Indian land occupied in the main by various branches of the tribe of Chippewa Indians and in a lesser part by the tribes of Menomonees and Winnebagoes.

That on the 28th day of March, 1843, a treaty was made and concluded at La Pointe, on Lake Superior, in the then Territory of Wisconsin, between the said Chippewa Indians and Robert Stuart, commissioner on the part of the United States, a copy of which is as follows:

"Article 1. The Chippewa Indians of the Mississippi and Lake Superior *cede to the United States* all the country within the following boundaries, viz.: Beginning at the mouth of Chocolate River of Lake Superior; thence northwardly across said lake to intersect the boundary line between the United States and the Province of Canada; thence up said Lake Superior to the mouth of the St. Louis or Fond du Lac River, (including all the islands in said lake); thence up said river to the American Fur Company's trading-post, at the southwardly bend thereof, about twenty-two miles from its mouth; thence south to intersect the line of the treaty of 29th of July, 1837, with the Chippewas of the Mississippi; thence along said line to its southeasterly extremity, near the Plover Portage on the Wisconsin River; thence northeasterly, along the boundary line, between the Chippewas and

Menomonees, to its eastern termination, (established by the treaty held with the Chippewas, Menomonees and Winnebagoes at Butt des Morts, August 11, 1827); on the Skonawby River of Green Bay; thence northwardly to the source of the Chocolate River; thence down said river to its mouth, the place of beginning; it being the intention of the parties to this treaty to include in this cession all the Chippewa lands eastwardly of the aforesaid line, running from the American Fur Company's trading-post, on the Fond du Lac River, to the intersection of the line of the treaty made with the Chippewas of the Mississippi, July 29th, 1837.

Article 2. The Indians stipulate for the right of hunting on the ceded territory, with the other usual privileges of occupancy, until required to remove by the President of the United States, and that the laws of the United States shall be continued in force, in respect to their trade and intercourse with the whites, until otherwise ordered by Congress.

Article 3. It is agreed by the parties to this treaty, that whenever the Indians shall be required to remove from the ceded district, all the unceded lands belonging to the Indians of Fond du Lac, Sandy Lake, and Mississippi bands shall be the common property and home of all the Indian party to this treaty.

Article 4. In consideration of the foregoing cession, the United States engage to pay to the Chippewa Indians of the Mississippi and Lake Superior, annually, for twenty-five years, twelve thousand five hundred (12,500) dollars in specie, ten thousand five hundred (10,500) dollars in goods, two thousand (2,000) dollars in provisions and tobacco, two thousand (2,000) dollars for

the support of two blacksmiths' shops, (including pay of smiths and assistants, and iron, steel, etc.,) one thousand (1,000) dollars for the pay of two farmers, twelve hundred (1,200) dollars for pay of two carpenters, and two thousand (2,000) dollars for the support of schools for the Indians party to this treaty; and further the United States engage to pay the sum of five thousand (5,000) dollars as an agriculture fund, to be expended under the direction of the Secretary of War. And also the sum of seventy-five thousand (75,000) dollars shall be allowed for the full satisfaction of their debts within the ceded district, which shall be examined by the commissioner to this treaty, and the amount to be allowed decided by him, which shall appear in a schedule hereunto annexed. The United States shall pay the amount so allowed within three years.

Whereas, the Indians have expressed a strong desire to have some provision made for their half-breed relatives, therefore it is agreed that fifteen thousand (15,000) dollars shall be paid to said Indians, next year, as a present, to be disposed of as they together with their agent, shall determine in council.

Article 5. Whereas, the whole country between Lake Superior and the Mississippi has always been understood as belonging in common to the Chippewas, party to this treaty; and whereas, the bands bordering on Lake Superior have not been allowed to participate in the annuity payments of the treaty made with the Chippewas of the Mississippi, at St. Peters, July 29, 1837, and whereas all the unceded lands belonging to the aforesaid Indians are hereafter to be held in common, therefore, to remove all occasions for jealousy and discontent, it is agreed that

all the annuity due by said treaty as also the annuity due by the present treaty, shall henceforth be equally divided among the Chippewas of the Mississippi and Lake Superior, party to this treaty, so that every person shall receive an equal share.

Article 6. The Indians residing on the Mineral district shall be subject to removal therefrom at the pleasure of the President of the United States.

Article 7. This treaty shall be obligatory upon the contracting parties when ratified by the President and Senate of the United States.

Proclaimed March 28, 1843.

VI.

That in compliance with Article 4 of said treaty, the United States paid the consideration for said lands so ceded, in strict accordance with the stipulations therein contained, to-wit: an aggregate sum of money and merchandise amounting to eight hundred and sixty thousand dollars, and all the title of said Indians in and to said lands was thereupon and thereby extinguished except a mere temporary right of occupancy. That the lands so ceded by said treaty embraced all of the lands hereinafter described, the title to which is claimed by the State of Wisconsin.

VII.

That by the terms of the treaty aforesaid the said Chippewa Indians released to the United States prior to the passage of the enabling act of congress aforesaid and to the adoption of the constitution of the State of Wisconsin and to the acceptance of the school land grant therein contained by said State, all of their claim of title

or interest in or to said lands and each and every part thereof, and ceded the same to the United States which thereupon became the absolute owner thereof free from any claim of said Indians, and the State of Wisconsin upon its admission to the Union as aforesaid, became vested with an absolute right in and to all the sections sixteen, within said territory, subsequently surveyed by the United States, with the right in said State to have any temporary possession or occupancy of the Indians aforesaid terminated by the United States.

VIII.

That at and prior to the making of the treaty of 1843 hereinbefore set out, the said Chippewa Indians claimed ownership and right of occupancy in large body of lands in what is now the State of Minnesota, including the lands particularly described in Article 2 of the treaty of September 20th, 1854, hereinafter set out in full. That under the terms of Article 2 of said treaty of 1843 it was contemplated that all of the Chippewa Indians scattered over the territory ceded to the United States by said treaty, should be removed and permanently located on their lands aforesaid within the boundaries of the present State of Minnesota, but that some of the bands and members of said tribe not wishing to be so removed procured the United States to enter into the farther and additional treaty with them on the 30th day of September, 1854, for the cession of certain of their lands within the boundaries of the present State of Minnesota in consideration among other things of the reservation to them of certain lands embraced within their cession in the said treaty of 1843, of which treaty of 1854 the following is a copy:

FRANKLIN PIERCE, President of the United States of America, to all and singular to whom these presents shall come, greeting:

WHEREAS, a treaty was made and concluded at LaPointe, in the State of Wisconsin, on the thirtieth day of September, eighteen hundred and fifty-four, by Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and head-men, which treaty is in the words following, to-wit:

Articles of a treaty made and concluded at LaPointe, in the State of Wisconsin, between Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and head-men,

Article 1. The Chippewas of Lake Superior hereby cede to the United States all the lands heretofore owned by them in common with the Chippewas of the Mississippi, lying east of the following boundary line, to-wit: Beginning at a point where the east branch of Snake River crosses the southern boundary-line of the Chippewa Country, running thence up the said branch to its source, thence nearly north, in a straight line, to the mouth of East Savannah River, thence up the St. Louis River to the mouth of East Swan River, thence up the East Swan River to its source, thence in a straight line to the most westerly bend of Vermillion River, and thence down the Vermillion River to its mouth.

The Chippewas of the Mississippi hereby consent and agree to the foregoing cession, and consent that the whole amount of the consideration money for the country ceded

above shall be paid to the Chippewas of Lake Superior, and in consideration thereof the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi all their interest in and claims to the lands heretofore owned by them in common, lying west of the above boundary line.

Article 2. The United States agrees *to set apart and withhold from sale*, for the use of the Chippewas of Lake Superior, the following described tracts of land, viz.:

1st. For the L'Anse and Vieux De Sert bands, all the unsold lands in the following townships in the State of Michigan, township fifty-one north, range thirty-three west; township fifty-one north, range thirty-two west; the east half of township fifty north, range thirty-three west; the west half of township fifty north, range thirty-two west; and all of township fifty-one north, range thirty-one west, lying west of Huron Bay.

2d. For the LaPointe band, and such other Indians as may see fit to settle with them, a tract of land bounded as follows: Beginning on the south shore of Lake Superior, a few miles west of Montreal River, at the mouth of a creek called by the Indians Ke-che-se-be-we-she, running thence south to a line drawn east and west through the center of township forty-seven north, thence west to the west line of said township, thence south to the southeast corner of township forty-six north, range two west, thence west the width of two townships, thence north the width of two townships, thence west one mile, thence north to the lake shore, and thence along the lake shore, crossing Shag-waw-me-quon Point, to the place of beginning. Also two hundred acres on the northern extremity of Madeline Island, for a fishing ground.

3. For the other Wisconsin bands, a tract of land lying about Lac De Flambeau, and another tract on Lac Court Orielles, each equal in extent to three townships, the boundaries of which shall be hereafter agreed upon or fixed under the direction of the President.

4th. For the Fond du Lac bands, a tract of land bounded as follows: Beginning at an island in the St. Louis River, above Knife Portage, called by the Indians Paw-paw-sco-me-me-tig, running thence west to the boundary line heretofore described, thence north along said boundary line to the mouth of the Savannah River, thence down the St. Louis River to the place of beginning. And if said tract shall contain less than one hundred thousand acres, a strip of land shall be added on the south side thereof large enough to equal such deficiency.

5th. For the Grand Portage band, a tract of land bounded as follows: Beginning at a rock a little east of the eastern extremity of Grand Portage Bay, running thence along the lake shore to the mouth of a small stream called by the Indians Maw-ske-gwaw-caw-maw-se-be, or Cranberry Marsh River, thence up said stream, across the point to Pigeon River, thence down Pigeon River to a point opposite the starting point, and thence across to the place of beginning.

6th. The Ontonagon band and that subdivision of the La Pointe band of which Buffalo is chief may each select, on or near the lake shore, four sections of land, under the direction of the President, the boundaries of which shall be defined hereafter. And being desirous to provide for some of his connections who have rendered his people important services, it is agreed that the chief Buffalo may select one section of land, at such place in

the ceded territory as he may see fit, which shall be reserved for that purpose, and conveyed by the United States to such person or persons as he may direct.

7th. Each head of a family, or a single person over twenty-one years of age at the present time, of the mixed bloods, belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land, to be selected by them under the direction of the President, and which shall be secured to them by patent in the usual form.

Article 3. The United States will define the boundaries of these reserved tracts, whenever it may be necessary, by actual survey, and the President may, from time to time, at his discretion, cause the whole to be surveyed, and may assign to each head of a family or single person over twenty-one years of age eighty acres of land for his or their separate use; and he may at his discretion, as fast as the occupants become capable of transacting their own affairs, issue patent therefor to such occupants, with such restrictions of the power of alienation as he may see fit to impose. And he may also, at his discretion, make rules and regulations respecting the disposition of the lands in case of the death of the head of a family or a single person occupying the same, or in case of its abandonment by them. And he may also assign other lands in exchange for mineral lands, if any such are found in the tracts herein set apart. And he may also make such changes in the boundaries of such reserved tracts or otherwise as shall be necessary to prevent interference with any vested rights. All necessary roads, highways and railroads, the lines of which may run through any of the reserved tracts, shall have the right-

of-way through the same, compensation being made therefor as in other cases.

Article 4. In consideration of and payment for the country hereby ceded, the United States agrees to pay to the Chippewas of Lake Superior, annually, for the term of twenty years, the following sums, to-wit: Five thousand dollars in coin; eight thousand dollars in goods, household furniture and cooking utensils; three thousand dollars in agricultural implements and cattle, carpenter's and other tools, and building materials, and three thousand dollars for moral and educational purposes, of which last sum three hundred dollars per annum shall be paid to the Grand Portage band, to enable them to maintain a school at their village. The United States will also pay the further sum of ninety thousand dollars, as the chiefs in open council may direct, to enable them to meet their present just engagements. Also, the further sum of six thousand dollars in agricultural implements, household furniture, and cooking utensils, to be distributed at the next annuity payment among the mixed bloods of said nation. The United States will also furnish two hundred guns, one hundred rifles, five hundred beaver traps, three hundred dollars' worth of ammunition, and one thousand dollars' worth of ready made clothing, to be distributed among the young men of the nation at the next annuity payment.

Article 5. The United States will also furnish a blacksmith and assistant, with the usual amount of stock, during the continuance of the annuity payments, and as much longer as the President may think proper, at each of the points herein set apart for the residence of the Indians, the same to be in lieu of all the employes to

which the Chippewas of Lake Superior may be entitled under the previous existing treaties.

Articles 6. The annuities of the Indians shall not be taken to pay the debts of individuals, but satisfaction for the depredations committed by them shall be made by them in such manner as the President may direct.

Article 7. No spirituous liquors shall be made, sold, or used on any of the lands herein set apart for the residence of the Indians, and the sale of the same shall be prohibited on the territory hereby ceded, until otherwise ordered by the President.

Article 8. It is agreed, between the Chippewas of Lake Superior and the Chippewas of the Mississippi that the former shall be entitled to two-thirds, and the latter to one-third, of all benefits to be derived from former treaties existing prior to the year 1847.

Article 9. The United States agree that an examination shall be made and all sums that may be found equitably due to the Indians, for arrearages of annuity or other thing, under the provisions of former treaties, shall be paid as the chiefs may direct.

Article 10. All missionaries, and teachers, and other persons of full age, residing in the territory hereby ceded, or upon any of the reservations hereby made by authority of law, shall be allowed to enter the land occupied by them at the minimum price whenever the surveys shall be completed, to the amount of one-quarter section each.

Article 11. All annuity payments to the Chippewas of Lake Superior shall hereafter be made at L'Anse, LaPointe, Grand Portage, and on the St. Louis River;

and the Indians shall not be required to remove from the homes hereby set apart for them. And such of them as reside in the territory hereby ceded shall have the right to hunt and fish therein, until otherwise ordered by the President.

Article 12. In consideration of the poverty of the Bois Forte Indians, who are parties to this treaty, they having never received any annuity payments, and of the great extent of that part of the ceded country owned exclusively by them, the following additional stipulations are made for their benefit. The United States will pay the sum of ten thousand dollars, as their chiefs in open council may direct, to enable them to meet their present just engagements. Also, the further sum of one thousand dollars, in five equal annual payments in blankets, cloth, nets, guns, ammunition and such other articles of necessity as they may require.

They shall have the right to select their reservation at any time hereafter under the direction of the President; and the same may be equal in extent, in proportion to their numbers, to those allowed the other bands, and be subject to the same provisions.

They shall be allowed a blacksmith, and the usual smith-shop supplies, and also two persons to instruct them in farming, whenever in the opinion of the President it shall be proper, and for such length of time as he shall direct.

It is understood that all Indians who are parties to this treaty, except the Chippewas of the Mississippi, shall hereafter be known as the Chippewas of Lake Superior; *Provided*, That the stipulation by which the Chippewas of Lake Superior relinquishing their right to land west

of the boundary-line shall not apply to the Bois Forte band, who are parties to this treaty.

Article 13. This treaty shall be obligatory on the contracting parties, as soon as the same shall be ratified by the President and Senate of the United States.

Proclaimed January 29, 1855.

That all of the lands described in Article 1 of said last named treaty and ceded thereby to the United States lie within the boundaries of the present State of Minnesota, and constitute no part of the land embraced in the treaty of March 28, 1843, hereinbefore set forth.

IX.

That all of the lands described in Subdivision 2 of Article 2 of said treaty of 1854 and therein agreed to be set apart and withheld from sale for the LaPointe band of said Chippewa Indians and all of the tracts of land referred to in the 3d Subdivision of Article 2 of said last named treaty lying about Lac Du Flambeau and on Lac Court Oreilles, the boundaries of which were thereafter agreed upon between the United States and said bands of Indians under the direction of the President, as hereinafter more particularly stated, were included and embraced in the lands ceded to the United States by said treaty of 1843, and were lands in which the State of Wisconsin had, under the enabling act and state constitution aforesaid, become entitled to every sixteenth section thereof.

X.

That the lands described in Subdivision 2 of Article 2 of said treaty of 1854, embraced all of townships 46 and 47 north, ranges 2 and 3 west, and portions of town-

ship 48 north, range 3 west, including section 16 as afterwards surveyed, and a portion of township 47 north, range 1 west, including section 16 therein, as afterwards surveyed:

That in the year 1847, the east line of township numbered 46 north, of range 2 west, and the west line of township number 47 north, range 1 west, were duly surveyed by the United States; that in the year 1852, all of the township lines of town 47 north, ranges 2 and 3 west, and the south and west lines of town 48, ranges 2 and 3, and the south, west and north lines of township 48 north, ranges 2 and 3 west, were duly surveyed by the United States, and the sectional subdivisions of each of said townships were duly surveyed at various times thereafter in the years 1856, 1858 and 1873.

XL

That for the purpose of setting apart a tract of land lying about Lac Du Flambeau for other Wisconsin bands of said Indians mentioned in Subdivision 3 of Article 2 of said treaty, surveys were made under the direction of the United States as follows: In July, 1857, the north line of townships 40 and 41, 4 and 5 east; in September, 1860, the east line of said towns 40 and 41-4 east; and in September, 1861, the south, east and west lines of towns 40 and 41-5 east; and in August, 1864, the south and west lines of townships 40 and 41-4 east; and in July, 1865, each of said townships was subdivided by such surveys, into sections.

That on June 22, 1866, all of the lands now claimed to be within the reservation of said Wisconsin bands about Lac Du Flambeau and covered by said Subdivision

3 of Article 2 aforesaid, were, by order of W. T. Otto, Acting Secretary of the Interior of the United States, withdrawn from sale until such time as the boundaries of the reservation contemplated by said treaty should be fully defined.

That no further and later action appears to have been taken by the United States in regard to said Lac Du Flambeau reservation, and said reservation has been hitherto held and claimed by said Wisconsin bands of said tribe under the terms of said order of June 26, 1866; that annexed hereto is a copy of all of the executive orders made in regard to said last named reservation, which copy is marked Exhibit "A," and made a part of this bill.

XII.

That, pursuant to the provisions of Subdivision 3 of Article 2 aforesaid for the withdrawal and setting apart of three townships of land about Lac Court Oreilles for other Wisconsin bands of said Chippewa Indians, certain lands in townships 39 north, ranges 7 and 9 west, and township 40 north, ranges 6, 7 and 8 west, were, by orders from the General Land Office of the United States, dated November 22, 1859, and April 4, 1865, withdrawn from market from which to select a permanent reservation for said bands of Indians, and by order of C. Delano, Secretary of the Interior of the United States, dated March 1, 1873, a permanent reservation for the Lac Court Oreilles bands of Chippewa Indians was fixed and determined, but in the selection of said lands and the fixing of such permanent reservation, all sections 16 therein were excluded; that annexed hereto is a copy of the several executive orders fixing the boundaries and limits

of said Lac Court Oreilles reservation, which copy is marked Exhibit "B," and made a part of this bill.

XIII.

That neither the boundaries nor the description of the lands to be embraced in the aforesaid Lac Du Flambeau and Lac Court Oreilles reservations were fixed or determined by the United States until after the lands embraced within such reservations had been surveyed and subdivided into sections and until after the title to sections 16 within such reservations had absolutely vested in the State of Wisconsin under the facts hereinbefore stated.

That a plat of said lands to be reserved under said treaty of 1854 to said La Pointe bands of Indians is hereto annexed, marked Exhibit "C," and made a part of this bill; that a plat of the lands withdrawn from sale and set apart for said Lac Du Flambeau Indians is hereto annexed, marked Exhibit "D," and made a part of this bill.

XIV.

That in and by the terms of Article 3 of said treaty of 1854, the power was expressly reserved to the United States to make changes in the boundaries of the tracts so reserved for said several bands of Indians or otherwise as might be necessary to prevent interference with any vested rights, and the United States exercised said power in excluding said sections 16 from said Lac Court Oreilles reservation, but omitted to exercise the same power as to said La Pointe and Lac Du Flambeau reservations.

XV.

That under the enabling act of congress aforesaid, and under the said state constitution, and under and in view of the cession of their lands by said Chippewa Indians contained in said treaty of 1843, all of the lands surveyed and to be surveyed as sections 16 of the various townships within the territory covered by said treaty vested in the State of Wisconsin, and said State of Wisconsin has at all times heretofore since its admission to the Union claimed a right to the fee of all lands in sections 16 in the several townships within said reservations and since the sectional survey thereof by the United States has claimed the actual fee in said sections and has exercised dominion and ownership over the same and has issued sundry and divers patents to divers persons and corporations for portions thereof, sundry of which persons and corporations, grantees of the State as aforesaid, have also exercised acts of ownership thereof and have paid taxes and made improvements thereon, and have cut and hauled timber therefrom until forbidden by orders of the defendant, Ethan Allen Hitchcock, as Secretary of the Interior of the United States, as herein-after more particularly mentioned. That patents for all of said sections 16 within said La Pointe reservation have heretofore been issued by said State to divers parties; and patents upon about fourteen forties of said sections 16 within said Lac Du Flambeau reservation have been issued by said State to divers parties and there still remain about twenty-nine forties in said sections 16 within said Lac Du Flambeau reservation, the title to which is still in and claimed by said State.

XVI.

That under the treaty of 1854 aforesaid and in carrying out its provisions, the said Secretary of the Interior has proceeded, through the United States Indian Department, to allot from time to time to the various members of said tribes of La Pointe bands of Indians and to various members of the Wisconsin bands on said Lac Du Flambeau reservation eighty acres per capita of lands within said reservations and has caused patents therefor to be issued to the members of said tribes as individuals, and such members have become full citizens of the United States, and have terminated their tribal relations, and have ceased to occupy any material part of said reservation in common.. That the lands within said reservations exclusive of the land in sections 16, are sufficient to secure to each individual Indian entitled thereto eighty acres thereof in severalty, as provided in said treaty; that neither the Department of the Interior of the United States nor the Indian Department of the United States has at any time heretofore attempted to allot or recognized selections upon any section 16 within said reservations in favor of any members of said tribes of Indians, and said tribes of Indians have not occupied, and do not occupy or use any of said sections 16 under claim of right under said treaty or otherwise except as they may from time to time hunt or fish thereon.

XVIII.

That beginning about the year 1899, and from thence hitherto, the defendant, Ethan Allen Hitchcock, as Secretary of the Interior, and the Commissioner of the Indian Office of the United States, and divers agents and

servants under them, have set up on behalf of said La Pointe and other bands of Indians, or the members thereof, a claim of interest or title in and to sections 16 aforesaid in the reservation townships aforesaid, paramount and adverse to the title of the State of Wisconsin, and have claimed and continue to claim that said sections 16 are still held by the United States in trust for said Indians to the same extent as other lands in said reserved townships, and have forbidden purchasers of such lands holding patents from the State to enter or make improvements or cut any timber thereon, and have thereby cast a cloud upon the title of the State and its grantees to said lands, and have interfered with, and are continuing to interfere with the use and enjoyment of the same by the owners thereof.

XIX.

That said lands so in dispute between the complainant, State of Wisconsin, and the defendant, Ethan Allen Hitchcock, as Secretary of the Interior of the United States, acting on behalf of said Indians, amount in the aggregate to about fifty-seven hundred and sixty (5760) acres of a market value of over fifty thousand (50,000) dollars. That by Chap. 95 of the Laws of the State of Wisconsin for the year 1903, approved April 20, 1903, the Attorney General of the State of Wisconsin was duly authorized to institute proceedings in this Court under the provisions of the act of congress passed March 2, 1901, and hereinbefore referred to, to determine the rights of said State to what are commonly known as school lands, within any reservation or Indian cession within said State, where any Indian tribe claims any right to or interest in said lands, or to the disposition

thereof by the United States, and particularly to determine the title of the lands embraced within sections sixteen in the several townships constituting the present Bad River or La Pointe, and the Flambeau Indian reservations within said State.

In consideration whereof, and for as much as your orator is remediless in the premises, and can have no adequate relief except in this Court; and to the end therefore, that the defendant may, if he can, show why your orator should not have the relief prayed, and to the end that the defendant may make full, true, direct and perfect answer to the matters hereinbefore stated and charged, but not under oath, answer under oath being expressly waived; and to the end that the title of your orator to the lands hereinbefore described and referred to, and that the title to said lands be decreed to be in your orator, and to the end that the defendant, his officers, servants and employes, and the officers, servants and employes of the said department of which he is the official head, be restrained by injunction issuing out of this Court, from in any manner interfering with the use, possession or enjoyment of any part of said lands, or of interfering with the exercise of your orator, or its grantees, of acts of ownership of said lands.

May it please Your Honors to grant unto your orator not only a writ of injunction, conformably to the prayer of this bill, by a writ of subpoena issuing out of, and under the seal of this Honorable Court, directed to the defendant, Ethan Allen Hitchcock, Secretary of the Interior of the United States, commanding him under a certain penalty to be therein inserted, on a day certain to be and appear and answer (but not under oath) to

this bill of complaint, and to further stand to and abide such order and decree as shall be made herein agreeably to equity and good conscience.

And your orator will ever pray.

L. M. STURDEVANT,
Attorney General of Wisconsin.

T. W. SPENCE,
Of Counsel for State of Wisconsin.

UNITED STATES OF AMERICA, }
STATE OF WISCONSIN, } ss.
COUNTY OF DANE.

Personally appeared before me the undersigned, L. M. Sturdevant, who being sworn in the foregoing cause, on oath, says he is the Attorney General of the State of Wisconsin, and as such directed the filing of the foregoing bill. That all of the facts set forth in said bill are true to the best of his knowledge, information and belief.

L. M. Sturdevant.

Sworn to and subscribed before me this

21st day of February, A. D. 1905.

A. E. Smith

Notary Public.
Wis.

EXHIBIT "A."

Lac De Flambeau Reserve.

[Area 52½ square miles; treaty September 30, 1854; act of May 29, 1872 (17 Stat. 190).]

DEPARTMENT OF THE INTERIOR,

Office Indian Affairs, June 22, 1866.

SIR: Provision is made in the third section of the second article of the treaty of September 30, 1854, with the Chippewa Indians of Lake Superior and the Mississippi, for setting apart and withholding from sale a tract of land lying about Lac De Flambeau, "equal in extent to three townships, the boundaries of which shall be hereafter agreed upon or fixed by the President." (U. S. Statutes at Large, vol. 10, p. 1109.)

As the lands adjoining this lake are about to be offered at public sale, it is important that immediate action should be taken in withdrawing from sale lands necessary for this reservation. The following-described lands were included within a survey made to define the boundaries of this reservation in June, 1863, by A. C. Stunz, surveyor, under the direction of the Superintendent of Indian Affairs, viz.: Sections 5 and 6, township 39 north, range 6 east; sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, township 40 north, range 6 east; sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, township 41 north, range 6 east; all of township 41 north, range 5 east; sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, township 41 north, range 4 east; sections 1, 2, 11, 12, 13 and 14, township 40 north, range 4 east; sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18; township 40 north, range 5 east; the area of the same being 55,630.26 acres.

As this is a less amount of land than is provided for in the treaty for said reservation, I would respectfully recommend that in addition to the foregoing there be reserved from sale, until such time as the boundaries of the reservation are fully defined, the following described lands which are contiguous to those included in the survey above stated, viz.: Sections, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, township 40 north, range 5 east; sections 3, 10, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, township 40 north, range 4 east.

Very respectfully, your obedient servant,

D. N. COOLEY,

Commissioner.

HON. JAMES HARLAN,

Secretary of the Interior.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE.

Washington, June 27, 1866.

SIR: I have received your letter of the 26th instant inclosing a copy of a letter from the Commissioner of Indian Affairs, dated the 22d, requesting the withholding from sale of certain lands on account of the Lac De Flambeau band of Chippewas, under third section, second article, of the treaty of September 30, 1854.

In compliance with your instructions the necessary entries have been made in the records of this office, and the register and receiver at Stevens Point, Wis., have this day been directed to withhold from sale the land described in the Commissioner's letter. A copy of my letter is inclosed herewith.

Very respectfully, your obedient servant,

JOS. S. WILSON,

Acting Commissioner.

HON. JAMES HARLAN,

Secretary of the Interior.

[Inclosure.]

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE.

Washington, June 27, 1866.

GENTLEMEN: In pursuance of the order of the Secretary of the Interior of the 26th instant, the following-described lands will be withheld from settlement or sale on account of the Lac De Flambeau band of Chippewa Indians, to-wit: Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, township 40, range 4 east; sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, township 41, range 4 east; all of township 40, range 5 east; all of township 41, range 5 east; sections 5 and 6, township 39, range 6 east; sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, township 40, range 6 east; and sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, township 41, range 6 east.

These lands will be held in reservation for the purpose mentioned, and consequently will not be subject to settlement or sale, and you will so enter them on your plats and tract-books, and advise me when that has been done.

JOS. S. WILSON,

Acting Commissioner.

REGISTER AND RECEIVER,

Stevens Point, Wis.

DEPARTMENT OF THE INTERIOR,

Washington, D. C., June 28, 1866.

SIR: For your information I inclose herewith copy of letter of the Commissioner of the General Land Office, transmitting to this Department copy of the order of withdrawal from public sale of certain lands in the

vicinity of Lac De Flambeau, Wis., as directed by my letter of the 26th instant.

Very respectfully, your obedient servant,

JAS. HARLAN,

HON. D. N. COOLEY,

Secretary.

Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,

June 27, 1866.

Register and Receiver, Stevens Point, Wis.:

GENTLEMEN:

In pursuance of the order of the Secretary of the Interior of the 26th inst., the following described lands will be withheld from settlement or sale on account of the Lac De Flambeau band of Chippewas, to-wit:

Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, *Town 40, R. 4 E.* Sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, *Town 41, R. 4 E.*

All of Town 40, R. 5 E.

All of Town 41, R. 5 E.

Sections 5 and 6, *Town 39, R. 6 E.*

Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, *Town 40, R. 6 E.*, and Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, *Town 41, R. 6 E.*

These lands will be held in reservation for the purpose mentioned, and consequently will not be subject to settlement or sale, and you will so enter them on your plats and tract books, and advise me when that has been done.

Very respectfully, etc.,

JOS. S. WILSON,

Actg. Commissioner.

EXHIBIT "B."

Lac Court Oreilles Reserve.

WASHINGTON, D. C., February 17, 1873.

SIR: I have the honor to inclose herewith, in accordance with your instructions dated December 18, 1872, a list of the lands selected as a permanent reservation for the Lac Court Oreille bands, Chippewas of Lake Superior, after consultation with the chiefs and headmen.

It is believed that the above-mentioned selection, while satisfactory to the Indians and fulfilling the spirit of the treaty which it is made, fully secures the interests of the General Government, as well as those of the State of Wisconsin.

It is of the greatest importance that a survey of the exterior boundaries of the reservation be made at the earliest practicable period. The boundary marks of the first survey are generally indistinct, and, besides, do not conform to the boundaries as now proposed.

Persons may trespass with little danger of discovery or hindrance now, but would be prevented if the boundaries of the reservation were distinctly defined and marked so that the Indians themselves could understand them.

Very respectfully, your obedient servant,

S. N. CLARK,

United States Indian Agent.

HON. H. R. CLUM,

*Acting Commissioner of Indian Affairs,
Washington, D. C.*

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs, February 24, 1873.

SIR: I have the honor to submit herewith the follow-

ing selections of land for a permanent reservation for the Lac Court Oreilles bands of Chippewas, of Lake Superior, as recommended in a report to this office from Agent S. N. Clark, under date of the 17th instant, pursuant to instructions of December 18, 1872, amounting in the aggregate to 69,136.41 acres, viz.:

Description	Section	Township	Range	Area	Description	Section	Township	Range	Area
				Acres					Acres
SE. $\frac{1}{4}$ and NE. $\frac{1}{4}$	3	40	6	266.97	All.....	3	40	8	534.70
E. $\frac{1}{4}$ and SE. $\frac{1}{4}$	8	40	6	80.00	All.....	4	40	8	537.80
NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$, S.					All.....	5	40	8	532.00
$\frac{1}{2}$ of NE. $\frac{1}{4}$ and S.					All.....	6	40	8	483.62
$\frac{1}{2}$ of NW. $\frac{1}{4}$	9	40	6	203.00	All.....	7	40	8	554.77
NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$, and NW. $\frac{1}{4}$	10	40	6	200.00	All.....	8	40	8	603.08
E. $\frac{1}{2}$ of NE. $\frac{1}{4}$, E. $\frac{1}{2}$ of SE. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ or lot 1.....	17	40	6	198.26	All.....	9	40	8	640.00
SE. $\frac{1}{4}$	18	40	6	169.00	All.....	10	40	8	640.00
NE. $\frac{1}{4}$	19	40	6	160.90	All.....	11	40	8	640.00
All.....	20	40	6	579.68	All.....	12	40	8	640.00
NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	21	40	6	40.00	All.....	13	40	8	640.00
Lot No. 1.....	27	40	6	62.36	All.....	14	40	8	640.00
Lots 2 and 3.....	28	40	6	96.40	All.....	15	40	8	445.33
SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ (lot 5) and SW. $\frac{1}{4}$ (lots 1, 6, and 7).....	28	40	6	165.24	All.....	16	40	8	186.88
All.....	29	40	6	450.77	All.....	17	40	8	1.70
S. $\frac{1}{2}$	30	40	6	248.24	All.....	18	40	8	165.06
All.....	31	40	6	439.03	All.....	19	40	8	606.25
NW. $\frac{1}{4}$ (lots 1, 2, and 3) and N. $\frac{1}{2}$ of NE. $\frac{1}{4}$	32	40	6	193.95	All.....	20	40	8	608.30
All.....	33	40	6	562.03	All.....	21	40	8	594.60
All.....	34	40	6	584.21	S. $\frac{1}{2}$, NW. $\frac{1}{4}$, S. $\frac{1}{4}$ of NE. $\frac{1}{4}$ and NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	22	40	8	600.00
SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$, (lots 1 and 2).....	35	40	6	38.07	All.....	23	40	8	639.99
Total in township.....				4,725.21	All.....	24	40	8	640.00
S. $\frac{1}{2}$, (lots 1, 2, 3, 4, and 5).....	26	40	7	200.35	All.....	25	40	8	635.10
SE. $\frac{1}{4}$, (lots 1 and 2).....	27	40	7	131.60	All.....	26	40	8	442.55
E. $\frac{1}{4}$	34	40	7	284.59	All.....	27	40	8	507.18
All.....	35	40	7	457.88	All.....	28	40	8	462.78
Part of SE. $\frac{1}{4}$ (lots 2 and 3) and SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$ (lot 4).....	36	40	7	119.75	All.....	29	40	8	380.69
Total in township.....				1,194.17	All.....	30	40	8	132.64
All.....	1	40	8	422.98	All.....	31	40	8	557.55
All.....	2	40	8	480.62	All.....	32	40	8	640.00
E. $\frac{1}{2}$, E. $\frac{1}{4}$ of SW. $\frac{1}{4}$ and NW. $\frac{1}{4}$ (lots 2 and 3).....	6	39	7	470.96	All.....	33	40	8	640.00
All.....	7	39	7	613.04	All.....	34	40	8	640.00
W. $\frac{1}{2}$, lots 1, 2, 3, and SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	8	39	7	534.83	All.....	35	40	8	640.00
					All.....	36	40	8	520.95
					Total in township.....				18,007.12
					All.....	1	39	7	630.05
					All.....	2	39	7	641.78
					N. $\frac{1}{2}$ of NE. $\frac{1}{4}$, S. $\frac{1}{2}$ of SE. $\frac{1}{4}$ and NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$	3	39	7	200.66
					All.....	4	39	7	601.67
					All.....	5	39	7	632.38
					All.....	23	39	8	618.20
					All.....	24	39	8	583.15
					All.....	25	39	8	640.00
					All.....	26	39	8	398.20
					All.....	27	39	8	590.59
					All.....	28	39	8	640.00
					All.....	29	39	8	640.00
					All.....	30	39	8	637.86

Description	Section	Township	Range	Area	Description	Section	Township	Range	Area
NE. 1/4 of NE. 1/4 lots 1, 2, 3, 4, 5, and 6, and SE. 1/4 of SE. 1/4....	9	39	7	315.01	S. 1/2, NW. 1/4, S. 1/2 of NE. 1/4, NW. 1/4 of NE. 1/4.....	31 32 33 34 35 36	39 39 39 39 39 39	8 8 8 8 8 8	Acres 895.08 640.00 640.00 640.00 636.00 640.00
S. 1/2, NE. 1/4, S. 1/2 of NW. 1/4 and NE. 1/4 of NW. 1/4.....	10	30	7	600.00	All.....	4	38	8	738.92
All.....	11	39	7	640.00	All.....	5	38	8	761.30
All.....	12	39	7	640.00	All.....	6	38	8	780.49
All.....	13	39	7	640.00	All.....	7	38	8	683.50
All.....	14	39	7	640.00	All.....	8	38	8	640.00
All.....	15	39	7	640.00	Total in township.....				20,604.60
W. 1/2, SE. 1/4, W. 1/2, NE. 1/4 and SE. 1/4 of NE. 1/4.....	17	39	7	600.00	All.....	9	38	8	600.00
All.....	18	39	7	609.76	All.....	17	38	8	640.00
All.....	19	39	7	611.76	All.....	18	38	8	627.88
All.....	20	39	7	640.00	Total in township.....				5,422.09
All.....	21	39	7	640.00	All.....	1	38	9	791.26
All.....	28	39	7	640.00	All.....	12	38	9	640.00
All.....	29	39	7	640.00	All.....	13	38	9	640.00
N. 1/2, NE. 1/4 of SW. 1/4, N. 1/2 of SE. 1/4 and SE. 1/4 of SE. 1/4	30	39	7	467.46	Total in township.....				2,071.26
E. 1/2, SW. 1/4, W. 1/2 of NW. 1/4 and SE. 1/4 of NW. 1/4.....	31	39	7	574.00	Lot 2.....	1	39	9	48.60
All.....	32	39	7	640.00	All.....	24	39	9	640.00
All.....	33	39	7	640.00	All.....	25	39	9	640.00
Total in township.....				15,143.36	All.....	26	39	9	640.00
All.....	1	39	8	873.77	Total in township.....				1,968.80
All.....	2	39	8	625.58	SUMMARY.				
All.....	3	39	8	618.90	Withdrawn Nov. 22, 1859	40	6		4,725.21
All.....	4	39	8	617.88	Do.....	40	7		1,194.17
All.....	5	39	8	401.37	Do.....	40	8		18,007.12
All.....	6	39	8	118.87	Do.....	39	7		15,143.36
All.....	7	39	8	594.75	Do.....	39	8		20,604.60
All.....	8	39	8	520.10	Do.....	38	8		5,422.09
All.....	9	39	8	640.00	Do.....	38	9		2,071.26
All.....	10	39	8	640.00	Withdrawn April 4, 1865	39	9		1,968.60
All.....	11	39	8	640.00	Do.....				
All.....	12	39	8	640.00	Aggregate withdrawn.....				69,136.41
All.....	13	39	8	640.00					
All.....	14	39	8	640.00					
All.....	15	39	8	640.00					
All.....	17	39	8	640.00					
NW. 1/4, N. 1/2 of SW. 1/4, N. 1/2 of SE. 1/4 and SE. 1/4 of SE. 1/4	18	39	8	352.22					
S. 1/2, NE. 1/4, SE. 1/4 of NW. 1/4 and W. 1/2 of NW. 1/4.....	19	39	8	592.28					
All.....	20	39	8	640.00					
All.....	21	39	8	640.00					
All.....	22	39	8	640.00					

I now respectfully recommend that the remainder of lands withdrawn from market by orders from the General Land Office of November 22, 1859, and April 4, 1865, from which to select a permanent reservation for said Indians, be restored to market.

Very respectfully, your obedient servant,

H. R. CLUM,

Acting Commissioner.

THE HON. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, March 1, 1873.

SIR: I transmit herewith copy of a letter from the Acting Commissioner of Indian Affairs, dated the 24th ultimo, submitting selections of land for a permanent reservation for the Lac Court Oreilles band of Chippewa Indians of Lake Superior, amounting in the aggregate to 69,136.41 acres.

The recommendation of the Acting Commissioner that the remainder of lands withdrawn from market by orders from the General Land Office of November 22, 1859, and April 4, 1865, from which to select a permanent reservation for said Indians, be restored to market, is hereby approved, and you will be pleased to carry the same into effect.

Very respectfully, your obedient servant,

C. DELANO,

Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

EXHIBIT "C."

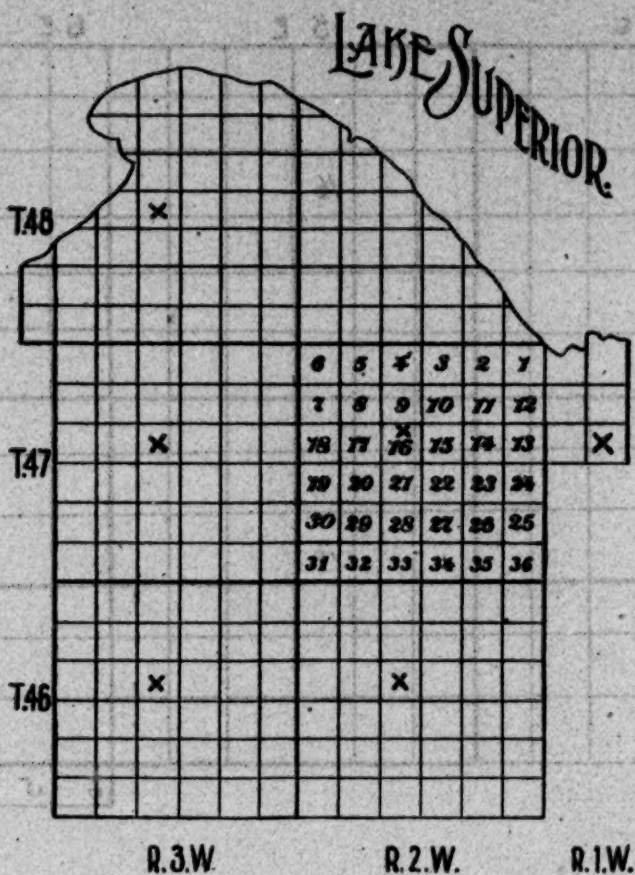


EXHIBIT "D."

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FILE COPY.

May 1952

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STATE COURT OF THE UNITED STATES

Case No. 19, Original

No. 19, Original

THE STATE OF NEW YORK, County of ...

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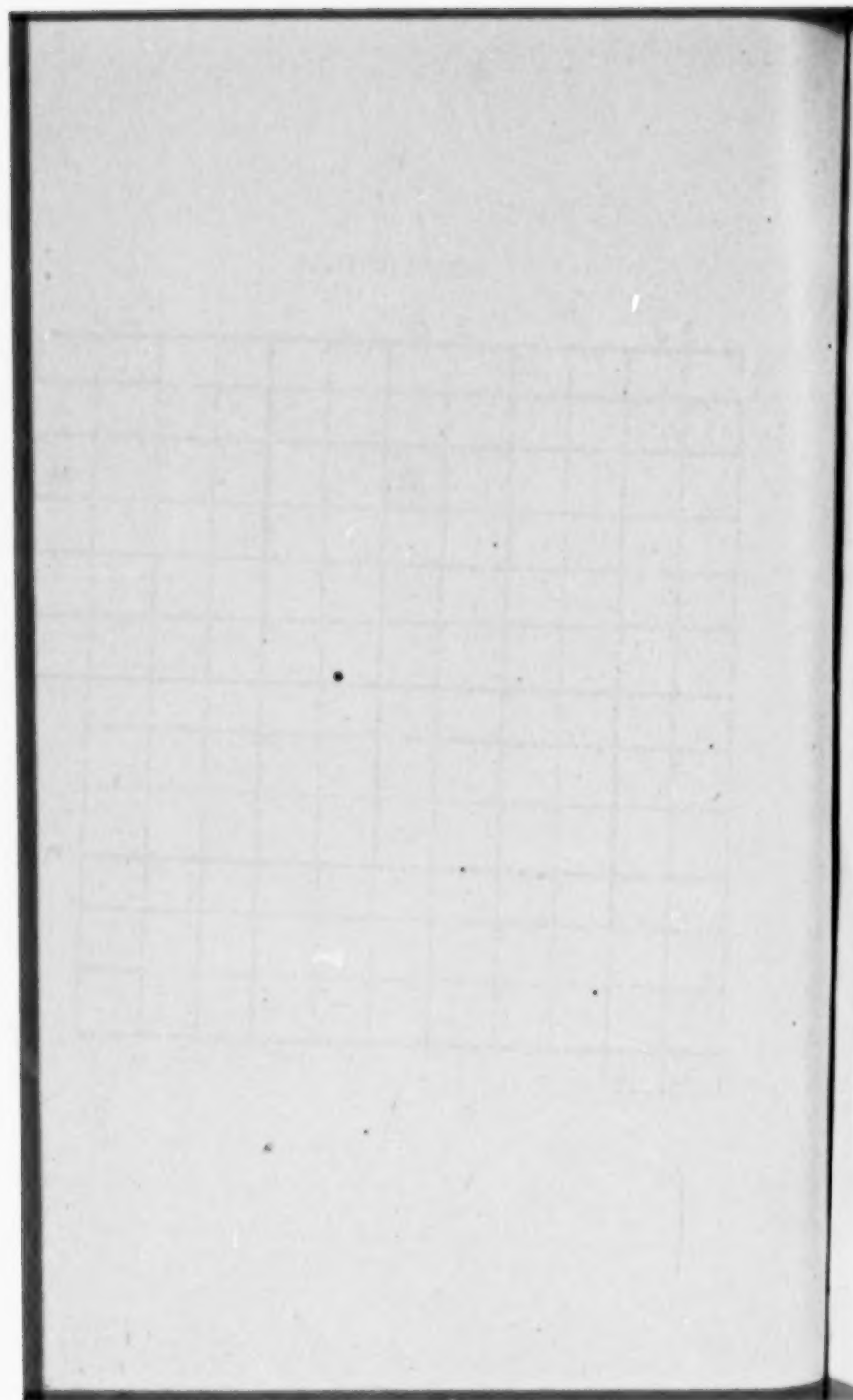
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FILE COPY.

Office Supreme Court U. S.
FILED

OCT 10 1905

JAMES H. McKENNEY,
Clerk.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 12, Original.

THE STATE OF WISCONSIN, COMPLAINANT,

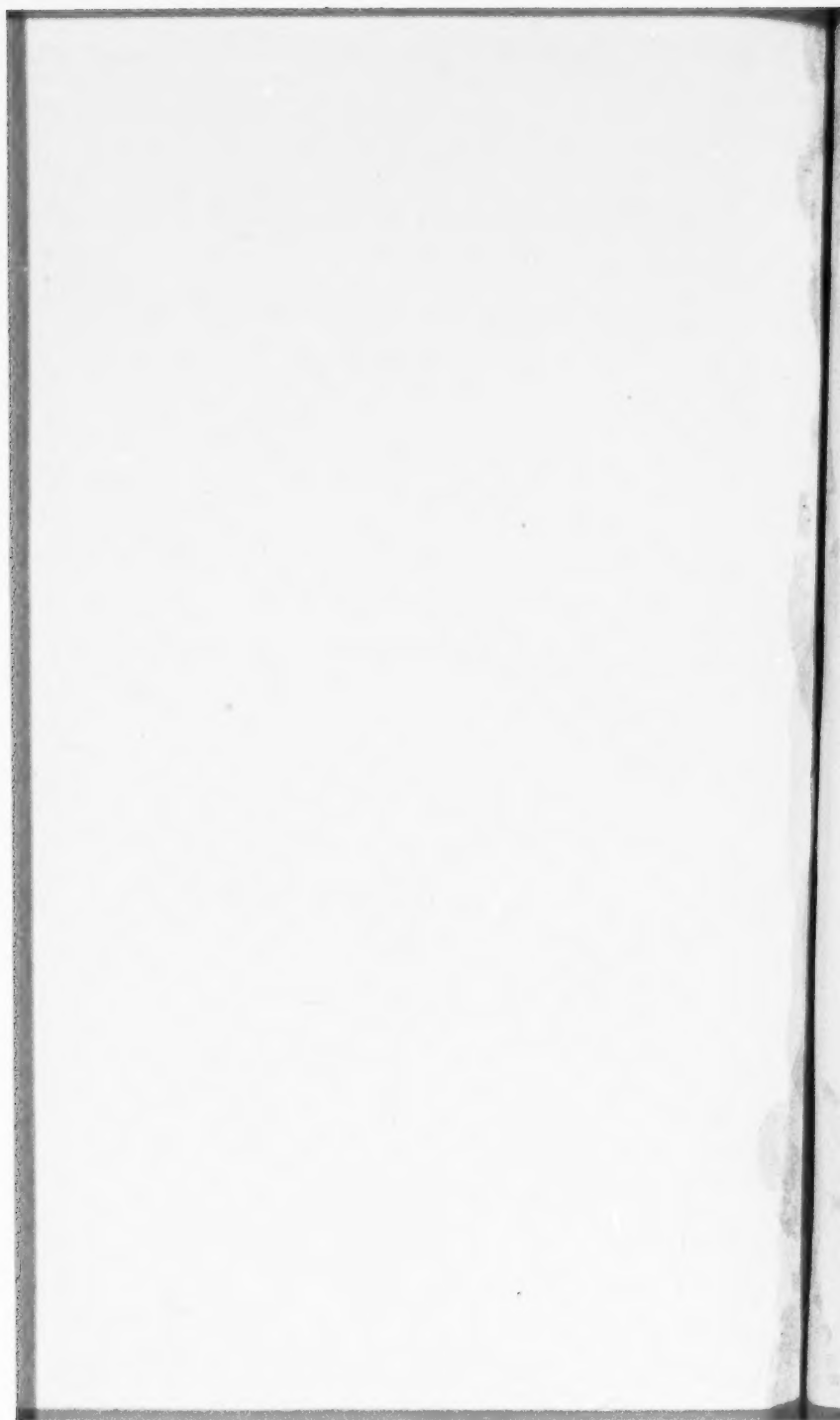
vs.

**ETHAN ALLEN HITCHCOCK, SECRETARY OF THE
INTERIOR.**

IN EQUITY.

SECOND AMENDED BILL.

STATE OF WISCONSIN,
By **L. M. STURDEVANT,**
Attorney General of Wisconsin.
T. W. SPENCE,
Of Counsel, Milwaukee, Wis.



In the Supreme Court of the United States

OCTOBER TERM, 1904.

THE STATE OF WISCONSIN,

VS.

ETHAN ALLEN HITCHCOCK,

SECRETARY OF THE INTERIOR.

IN EQUITY.

*To the Honorable Chief Justice and Associate Justices
of the Supreme Court of the United States Sitting in
Equity:*

The State of Wisconsin, by its Attorney General, L. M. Sturdevant, and T. W. Spence, special counsel, by leave of Court first had and obtained, files this, its amended bill of complaint, against Ethan Allen Hitchcock, who is Secretary of the Interior of the United States, and who is a citizen of the State of Missouri.

And whereupon your orator complains and says:

I.

That in and by Section 7 of an Act of Congress of the United States to ENABLE THE PEOPLE OF WISCONSIN TERRITORY TO FORM A CONSTITUTION AND STATE GOVERNMENT AND FOR THE ADMISSION OF SUCH STATE INTO THE UNION, approved August 6, 1840, it was enacted as follows:

“Section 7. And be it further enacted that the following propositions are hereby submitted to the conven-

tion which shall assemble for the purpose of forming a constitution for the State of Wisconsin for acceptance or rejection; and if accepted by said convention and ratified by an article in said constitution, they shall be obligatory on the United States.

1. That section numbered 16 in every township of the public lands in said state, and where such section has been sold or otherwise disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools."

That on February 1, 1848, the constitutional convention of the people of said territory, duly called in accordance with said enabling act of congress, adopted a constitution which was thereafter duly ratified by vote of the people of said territory on the 2d day of March, 1848, in accordance with the provisions of the enabling act aforesaid and the provisions of said constitution.

That in and by Section 2 of Article 2 of said constitution all of the propositions of the enabling act of congress aforesaid were accepted, ratified and confirmed, including the provisions of Section 7 thereof hereinbefore set forth.

II.

That following the adoption of said constitution, by an act of congress of the United States, approved May 29, 1848, said State of Wisconsin was duly admitted into the Union on equal footing with the original states in all respects whatsoever, with the following boundaries, to-wit: Beginning at the northeast corner of the State of Illinois, that is to say, at a point in the center of Lake Michigan, where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence running

with the boundary line of the State of Michigan through Lake Michigan, Green Bay, to the mouth of the Menominee River; thence up the channel of said river to the Brule River; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule in a direct line to the center of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the headwaters of the Montreal River, as marked upon the survey made by Captain Cramm; thence down the main channel of the Montreal River to the middle of Lake Superior; thence through the center of Lake Superior to the mouth of the Saint Louis River; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the river Saint Croix; thence down the main channel of the said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the State of Illinois; thence due east with the northern boundary of the State of Illinois to the place of beginning.

III.

That by virtue of the enabling act aforesaid and the acceptance of its provisions in the constitution of the State of Wisconsin and the admission of said State into the Union, said State of Wisconsin acquired the fee of Sections 16 in all the lands belonging to the United States at the time of the admission of said State into the Union and theretofore surveyed, and the right to the fee in Sections 16 in all lands so owned by the United States whenever and as soon as the same should be surveyed, within the whole of the territory hereinbefore described.

IV.

That prior to the 28th day of March, 1843, almost the entire northern half of the above territory and of the present boundaries of the State of Wisconsin, including the lands lying between Lake Superior on the north, Green Bay and Fox River on the east, the latitude of Plover Portage on the Wisconsin River on the south and the Mississippi River on the west, was *unceded* Indian land occupied in the main by various branches of the tribe of Chippewa Indians and in a lesser part by the tribes of Menomonees and Winnebagoes.

That on the 28th day of March, 1843, a treaty was made and concluded at La Pointe, on Lake Superior, in the then Territory of Wisconsin, between the said Chippewa Indians and Robert Stuart, commissioner on the part of the United States, a copy of which is as follows:

“Article 1. The Chippewa Indians of the Mississippi and Lake Superior *cede to the United States* all the country within the following boundaries, viz.: Beginning at the mouth of Chocolate River of Lake Superior; thence northwardly across said lake to intersect the boundary line between the United States and the Province of Canada; thence up said Lake Superior to the mouth of the St. Louis or Fond du Lac River, (including all the islands in said lake); thence up said river to the American Fur Company's trading-post, at the southwardly bend thereof, about twenty-two miles from its mouth; thence south to intersect the line of the treaty of 29th of July, 1837, with the Chippewas of the Mississippi; thence along said line to its southeasterly extremity, near the Plover Portage on the Wisconsin River; thence northeasterly, along the boundary line, between the Chippewas and

Menomonees, to its eastern termination, (established by the treaty held with the Chippewas, Menomonees and Winnebagoes at Butt des Morts, August 11, 1827), on the Skonawby River of Green Bay; thence northwardly to the source of the Chocolate River; thence down said river to its mouth, the place of beginning; it being the intention of the parties to this treaty to include in this cession all the Chippewa lands eastwardly of the aforesaid line, running from the American Fur Company's trading-post, on the Fond du Lac River, to the intersection of the line of the treaty made with the Chippewas of the Mississippi, July 29th, 1837.

Article 2. The Indians stipulate for the right of hunting on the ceded territory, with the other usual privileges of occupancy, until required to remove by the President of the United States, and that the laws of the United States shall be continued in force, in respect to their trade and intercourse with the whites, until otherwise ordered by Congress.

Article 3. It is agreed by the parties to this treaty, that whenever the Indians shall be required to remove from the ceded district, all the unceded lands belonging to the Indians of Fond du Lac, Sandy Lake, and Mississippi bands shall be the common property and home of all the Indian party to this treaty.

Article 4. In consideration of the foregoing cession, the United States engage to pay to the Chippewa Indians of the Mississippi and Lake Superior, annually, for twenty-five years, twelve thousand five hundred (12,500) dollars in specie, ten thousand five hundred (10,500) dollars in goods, two thousand (2,000) dollars in provisions and tobacco, two thousand (2,000) dollars for

the support of two blacksmiths' shops, (including pay of smiths and assistants, and iron, steel, etc.,) one thousand (1,000) dollars for the pay of two farmers, twelve hundred (1,200) dollars for pay of two carpenters, and two thousand (2,000) dollars for the support of schools for the Indians party to this treaty; and further the United States engage to pay the sum of five thousand (5,000) dollars as an agriculture fund, to be expended under the direction of the Secretary of War. And also the sum of seventy-five thousand (75,000) dollars shall be allowed for the full satisfaction of their debts within the ceded district, which shall be examined by the commissioner to this treaty, and the amount to be allowed decided by him, which shall appear in a schedule hereunto annexed. The United States shall pay the amount so allowed within three years.

Whereas, the Indians have expressed a strong desire to have some provision made for their half-breed relatives, therefore it is agreed that fifteen thousand (15,000) dollars shall be paid to said Indians, next year, as a present, to be disposed of as they together with their agent, shall determine in council.

Article 5. Whereas, the whole country between Lake Superior and the Mississippi has always been understood as belonging in common to the Chippewas, party to this treaty; and whereas, the bands bordering on Lake Superior have not been allowed to participate in the annuity payments of the treaty made with the Chippewas of the Mississippi, at St. Peters, July 29, 1837, and whereas all the unceded lands belonging to the aforesaid Indians are hereafter to be held in common, therefore, to remove all occasions for jealousy and discontent, it is agreed that

all the annuity due by said treaty as also the annuity due by the present treaty, shall henceforth be equally divided among the Chippewas of the Mississippi and Lake Superior, party to this treaty, so that every person shall receive an equal share.

Article 6. The Indians residing on the Mineral district shall be subject to removal therefrom at the pleasure of the President of the United States.

Article 7. This treaty shall be obligatory upon the contracting parties when ratified by the President and Senate of the United States.

Proclaimed March 28, 1843.

VI.

That in compliance with Article 4 of said treaty, the United States paid the consideration for said lands so ceded, in strict accordance with the stipulations therein contained, to-wit: an aggregate sum of money and merchandise amounting to eight hundred and sixty thousand dollars, and all the title of said Indians in and to said lands was thereupon and thereby extinguished except a mere temporary right of occupancy. That the lands so ceded by said treaty embraced all of the lands hereinafter described, the title to which is claimed by the State of Wisconsin.

VII.

That by the terms of the treaty aforesaid the said Chippewa Indians released to the United States prior to the passage of the enabling act of congress aforesaid and to the adoption of the constitution of the State of Wisconsin and to the acceptance of the school land grant therein contained by said State, all of their claim of title

or interest in or to said lands and each and every part thereof, and ceded the same to the United States which thereupon became the absolute owner thereof free from any claim of said Indians, and the State of Wisconsin upon its admission to the Union as aforesaid, became vested with an absolute right in and to all the sections sixteen, within said territory, subsequently surveyed by the United States, with the right in said State to have any temporary possession or occupancy of the Indians aforesaid terminated by the United States.

VIII.

That at and prior to the making of the treaty of 1843 hereinbefore set out, the said Chippewa Indians claimed ownership and right of occupancy in large body of lands in what is now the State of Minnesota, including the lands particularly described in Article 2 of the treaty of September 20th, 1854, hereinafter set out in full. That under the terms of Article 2 of said treaty of 1843 it was contemplated that all of the Chippewa Indians scattered over the territory ceded to the United States by said treaty, should be removed and permanently located on their lands aforesaid within the boundaries of the present State of Minnesota, but that some of the bands and members of said tribe not wishing to be so removed procured the United States to enter into the farther and additional treaty with them on the 30th day of September, 1854, for the cession of certain of their lands within the boundaries of the present State of Minnesota in consideration among other things of the reservation to them of certain lands embraced within their cession in the said treaty of 1843, of which treaty of 1854 the following is a copy:

FRANKLIN PIERCE, President of the United States of America, to all and singular to whom these presents shall come, greeting:

WHEREAS, a treaty was made and concluded at LaPointe, in the State of Wisconsin, on the thirtieth day of September, eighteen hundred and fifty-four, by Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and head-men, which treaty is in the words following, to-wit:

Articles of a treaty made and concluded at LaPointe, in the State of Wisconsin, between Henry C. Gilbert and David B. Herriman, commissioners on the part of the United States, and the Chippewa Indians of Lake Superior and the Mississippi, by their chiefs and head-men.

Article 1. The Chippewas of Lake Superior hereby cede to the United States all the lands heretofore owned by them in common with the Chippewas of the Mississippi, lying east of the following boundary line, to-wit: Beginning at a point where the east branch of Snake River crosses the southern boundary-line of the Chippewa Country, running thence up the said branch to its source, thence nearly north, in a straight line, to the mouth of East Savannah River, thence up the St. Louis River to the mouth of East Swan River, thence up the East Swan River to its source, thence in a straight line to the most westerly bend of Vermillion River, and thence down the Vermillion River to its mouth.

The Chippewas of the Mississippi hereby consent and agree to the foregoing cession, and consent that the whole amount of the consideration money for the country ceded

above shall be paid to the Chippewas of Lake Superior, and in consideration thereof the Chippewas of Lake Superior hereby relinquish to the Chippewas of the Mississippi all their interest in and claims to the lands heretofore owned by them in common, lying west of the above boundary line.

Article 2. The United States agrees *to set apart and withhold from sale*, for the use of the Chippewas of Lake Superior, the following described tracts of land, viz.:

1st. For the L'Anse and Vieux De Sert bands, all the unsold lands in the following townships in the State of Michigan, township fifty-one north, range thirty-three west; township fifty-one north, range thirty-two west; the east half of township fifty north, range thirty-three west; the west half of township fifty north, range thirty-two west; and all of township fifty-one north, range thirty-one west, lying west of Huron Bay.

2d. For the LaPointe band, and such other Indians as may see fit to settle with them, a tract of land bounded as follows: Beginning on the south shore of Lake Superior, a few miles west of Montreal River, at the mouth of a creek called by the Indians Ke-che-se-be-we-she, running thence south to a line drawn east and west through the center of township forty-seven north, thence west to the west line of said township, thence south to the southeast corner of township forty-six north, range two west, thence west the width of two townships, thence north the width of two townships, thence west one mile, thence north to the lake shore, and thence along the lake shore, crossing Shag-waw-me-quon Point, to the place of beginning. Also two hundred acres on the northern extremity of Madeline Island, for a fishing ground.

3. For the other Wisconsin bands, a tract of land lying about Lac De Flambeau, and another tract on Lac Court Orielles, each equal in extent to three townships, the boundaries of which shall be hereafter agreed upon or fixed under the direction of the President.

4th. For the Fond du Lac bands, a tract of land bounded as follows: Beginning at an island in the St. Louis River, above Knife Portage, called by the Indians Paw-paw-sco-me-me-tig, running thence west to the boundary line heretofore described, thence north along said boundary line to the mouth of the Savannah River, thence down the St. Louis River to the place of beginning. And if said tract shall contain less than one hundred thousand acres, a strip of land shall be added on the south side thereof large enough to equal such deficiency.

5th. For the Grand Portage band, a tract of land bounded as follows: Beginning at a rock a little east of the eastern extremity of Grand Portage Bay, running thence along the lake shore to the mouth of a small stream called by the Indians Maw-ske-gwaw-caw-maw-se-be, or Cranberry Marsh River, thence up said stream, across the point to Pigeon River, thence down Pigeon River to a point opposite the starting point, and thence across to the place of beginning.

6th. The Ontonagon band and that subdivision of the La Pointe band of which Buffalo is chief may each select, on or near the lake shore, four sections of land, under the direction of the President, the boundaries of which shall be defined hereafter. And being desirous to provide for some of his connections who have rendered his people important services, it is agreed that the chief Buffalo may select one section of land, at such place in

the ceded territory as he may see fit, which shall be reserved for that purpose, and conveyed by the United States to such person or persons as he may direct.

7th. Each head of a family, or a single person over twenty-one years of age at the present time, of the mixed bloods, belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land, to be selected by them under the direction of the President, and which shall be secured to them by patent in the usual form.

Article 3. The United States will define the boundaries of these reserved tracts, whenever it may be necessary, by actual survey, and the President may, from time to time, at his discretion, cause the whole to be surveyed, and may assign to each head of a family or single person over twenty-one years of age eighty acres of land for his or their separate use; and he may at his discretion, as fast as the occupants become capable of transacting their own affairs, issue patent therefor to such occupants, with such restrictions of the power of alienation as he may see fit to impose. And he may also, at his discretion, make rules and regulations respecting the disposition of the lands in case of the death of the head of a family or a single person occupying the same, or in case of its abandonment by them. And he may also assign other lands in exchange for mineral lands, if any such are found in the tracts herein set apart. And he may also make such changes in the boundaries of such reserved tracts or otherwise as shall be necessary to prevent interference with any vested rights. All necessary roads, highways and railroads, the lines of which may run through any of the reserved tracts, shall have the right-

of-way through the same, compensation being made therefor as in other cases.

Article 4. In consideration of and payment for the country hereby ceded, the United States agrees to pay to the Chippewas of Lake Superior, annually, for the term of twenty years, the following sums, to-wit: Five thousand dollars in coin; eight thousand dollars in goods, household furniture and cooking utensils; three thousand dollars in agricultural implements and cattle, carpenter's and other tools, and building materials, and three thousand dollars for moral and educational purposes, of which last sum three hundred dollars per annum shall be paid to the Grand Portage band, to enable them to maintain a school at their village. The United States will also pay the further sum of ninety thousand dollars, as the chiefs in open council may direct, to enable them to meet their present just engagements. Also, the further sum of six thousand dollars in agricultural implements, household furniture, and cooking utensils, to be distributed at the next annuity payment among the mixed bloods of said nation. The United States will also furnish two hundred guns, one hundred rifles, five hundred beaver traps, three hundred dollars' worth of ammunition, and one thousand dollars' worth of ready made clothing, to be distributed among the young men of the nation at the next annuity payment.

Article 5. The United States will also furnish a blacksmith and assistant, with the usual amount of stock, during the continuance of the annuity payments, and as much longer as the President may think proper, at each of the points herein set apart for the residence of the Indians, the same to be in lieu of all the employes to

which the Chippewas of Lake Superior may be entitled under the previous existing treaties.

Articles 6. The annuities of the Indians shall not be taken to pay the debts of individuals, but satisfaction for the depredations committed by them shall be made by them in such manner as the President may direct.

Article 7. No spirituous liquors shall be made, sold, or used on any of the lands herein set apart for the residence of the Indians, and the sale of the same shall be prohibited on the territory hereby ceded, until otherwise ordered by the President.

Article 8. It is agreed, between the Chippewas of Lake Superior and the Chippewas of the Mississippi that the former shall be entitled to two-thirds, and the latter to one-third, of all benefits to be derived from former treaties existing prior to the year 1847.

Article 9. The United States agree that an examination shall be made and all sums that may be found equitably due to the Indians, for arrearages of annuity or other thing, under the provisions of former treaties, shall be paid as the chiefs may direct.

Article 10. All missionaries, and teachers, and other persons of full age, residing in the territory hereby ceded, or upon any of the reservations hereby made by authority of law, shall be allowed to enter the land occupied by them at the minimum price whenever the surveys shall be completed, to the amount of one-quarter section each.

Article 11. All annuity payments to the Chippewas of Lake Superior shall hereafter be made at L'Anse, LaPointe, Grand Portage, and on the St. Louis River;

and the Indians shall not be required to remove from the homes hereby set apart for them. And such of them as reside in the territory hereby ceded shall have the right to hunt and fish therein, until otherwise ordered by the President.

Article 12. In consideration of the poverty of the Bois Forte Indians, who are parties to this treaty, they having never received any annuity payments, and of the great extent of that part of the ceded country owned exclusively by them, the following additional stipulations are made for their benefit. The United States will pay the sum of ten thousand dollars, as their chiefs in open council may direct, to enable them to meet their present just engagements. Also, the further sum of one thousand dollars, in five equal annual payments in blankets, cloth, nets, guns, ammunition and such other articles of necessity as they may require.

They shall have the right to select their reservation at any time hereafter under the direction of the President; and the same may be equal in extent, in proportion to their numbers, to those allowed the other bands, and be subject to the same provisions.

They shall be allowed a blacksmith, and the usual smith-shop supplies, and also two persons to instruct them in farming, whenever in the opinion of the President it shall be proper, and for such length of time as he shall direct.

It is understood that all Indians who are parties to this treaty, except the Chippewas of the Mississippi, shall hereafter be known as the Chippewas of Lake Superior; *Provided*, That the stipulation by which the Chippewas of Lake Superior relinquishing their right to land west

of the boundary-line shall not apply to the Bois Forte band, who are parties to this treaty.

Article 13. This treaty shall be obligatory on the contracting parties, as soon as the same shall be ratified by the President and Senate of the United States.

Proclaimed January 29, 1855.

That all of the lands described in Article 1 of said last named treaty and ceded thereby to the United States lie within the boundaries of the present State of Minnesota, and constitute no part of the land embraced in the treaty of March 28, 1843, hereinbefore set forth.

IX.

That all of the lands described in Subdivision 2 of Article 2 of said treaty of 1854 and therein agreed to be set apart and withheld from sale for the LaPointe band of said Chippewa Indians and all of the tracts of land referred to in the 3d Subdivision of Article 2 of said last named treaty lying about Lac Du Flambeau and on Lac Court Oreilles, the boundaries of which were thereafter agreed upon between the United States and said bands of Indians under the direction of the President, as hereinafter more particularly stated, were included and embraced in the lands ceded to the United States by said treaty of 1843, and were lands in which the State of Wisconsin had, under the enabling act and state constitution aforesaid, become entitled to every sixteenth section thereof.

X.

That the lands described in Subdivision 2 of Article 2 of said treaty of 1854, embraced all of township 46 and 47 north, ranges 2 and 3 west, and portions of town-

ship 48 north, range 3 west, including section 16 as afterwards surveyed, and a portion of township 47 north, range 1 west, including section 16 therein, as afterwards surveyed:

That in the year 1847, the east line of township numbered 46 north, of range 2 west, and the west line of township number 47 north, range 1 west, were duly surveyed by the United States; that in the year 1852, all of the township lines of town 47 north, ranges 2 and 3 west, and the south and west lines of town 48, ranges 2 and 3, and the south, west and north lines of township 48 north, ranges 2 and 3 west, were duly surveyed by the United States, and the sectional subdivisions of each of said townships were duly surveyed at various times thereafter in the years 1856, 1858 and 1873.

XI.

That for the purpose of setting apart a tract of land lying about Lac Du Flambeau for other Wisconsin bands of said Indians mentioned in Subdivision 3 of Article 2 of said treaty, surveys were made under the direction of the United States as follows: In July, 1857, the north line of townships 40 and 41, 4 and 5 east; in September, 1860, the east line of said towns 40 and 41-4 east; and in September, 1861, the south, east and west lines of towns 40 and 41-5 east; and in August, 1864, the south and west lines of townships 40 and 41-4 east; and in July, 1865, each of said townships was subdivided by such surveys, into sections.

That on June 22, 1866, all of the lands now claimed to be within the reservation of said Wisconsin bands about Lac Du Flambeau and covered by said Subdivision

3 of Article 2 aforesaid, were, by order of W. T. Otto, Acting Secretary of the Interior of the United States, withdrawn from sale until such time as the boundaries of the reservation contemplated by said treaty should be fully defined.

That no further and later action appears to have been taken by the United States in regard to said Lac Du Flambeau reservation, and said reservation has been hitherto held and claimed by said Wisconsin bands of said tribe under the terms of said order of June 26, 1866; that annexed hereto is a copy of all of the executive orders made in regard to said last named reservation, which copy is marked Exhibit "A," and made a part of this bill.

XII.

That pursuant to the provisions of Subdivision 3 of Article 2 aforesaid for the withdrawal and setting apart of three townships of land about Lac Court Oreilles for other Wisconsin bands of said Chippewa Indians, certain lands in townships 39 north, ranges 7 and 9 west, and township 40 north, ranges 6, 7 and 8 west, were, by orders from the General Land Office of the United States, dated November 22, 1859, and April 4, 1865, withdrawn from market from which to select a permanent reservation for said bands of Indians, and by order of C. Delano, Secretary of the Interior of the United States, dated March 1, 1873, a permanent reservation for the Lac Court Oreilles bands of Chippewa Indians was fixed and determined, but in the selection of said lands and the fixing of such permanent reservation, all sections 16 therein were excluded; that annexed hereto is a copy of the several executive orders fixing the boundaries and limits

of said Lac Court Oreilles reservation, which copy is marked Exhibit "B," and made a part of this bill.

XIII.

That neither the boundaries nor the description of the lands to be embraced in the aforesaid Lac Du Flambeau and Lac Court Oreilles reservations were fixed or determined by the United States until after the lands embraced within such reservations had been surveyed and subdivided into sections and until after the title to sections 16 within such reservations had absolutely vested in the State of Wisconsin under the facts hereinbefore stated.

That a plat of said lands to be reserved under said treaty of 1854 to said La Pointe bands of Indians is hereto annexed, marked Exhibit "C," and made a part of this bill; that a plat of the lands withdrawn from sale and set apart for said Lac Du Flambeau Indians is hereto annexed, marked Exhibit "D," and made a part of this bill.

XIV.

That in and by the terms of Article 3 of said treaty of 1854, the power was expressly reserved to the United States to make changes in the boundaries of the tracts so reserved for said several bands of Indians or otherwise as might be necessary to prevent interference with any vested rights, and the United States exercised said power in excluding said sections 16 from said Lac Court Oreilles reservation, but omitted to exercise the same power as to said La Pointe and Lac Du Flambeau reservations.

XV.

That under the enabling act of congress aforesaid, and under the said state constitution, and under and in view of the cession of their lands by said Chippewa Indians contained in said treaty of 1843, all of the lands surveyed and to be surveyed as sections 16 of the various townships within the territory covered by said treaty vested in the State of Wisconsin, and said State of Wisconsin has at all times heretofore since its admission to the Union claimed a right to the fee of all lands in sections 16 in the several townships within said reservations and since the sectional survey thereof by the United States has claimed the actual fee in said sections and has exercised dominion and ownership over the same and has issued sundry and divers patents to divers persons and corporations for portions thereof, sundry of which persons and corporations, grantees of the State as aforesaid, have also exercised acts of ownership thereof and have paid taxes and made improvements thereon, and have cut and hauled timber therefrom until forbidden by orders of the defendant, Ethan Allen Hitchcock, as Secretary of the Interior of the United States, as hereinafter more particularly mentioned. That patents for all of said sections 16 within said La Pointe reservation have heretofore been issued by said State to divers parties; and patents upon about fourteen forties of said sections 16 within said Lac Du Flambeau reservation have been issued by said State to divers parties and there still remain about twenty-nine forties in said sections 16 within said Lac Du Flambeau reservation, the title to which is still in and claimed by said State.

XVI.

That under the treaty of 1854 aforesaid and in carrying out its provisions, the said Secretary of the Interior has proceeded, through the United States Indian Department, to allot from time to time to the various members of said tribes of La Pointe bands of Indians and to various members of the Wisconsin bands on said Lac Du Flambeau reservation eighty acres per capita of lands within said reservations and has caused patents therefor to be issued to the members of said tribes as individuals, and such members have become full citizens of the United States, and have terminated their tribal relations, and have ceased to occupy any material part of said reservation in common.

That the lands within said reservations exclusive of the lands in sections 16, are sufficient to secure eighty acres to each individual Indian who has hitherto appeared and claimed a right to an allotment. That no allotment has hitherto been allowed to any member of said tribes of Indians of any land embraced within any of said Sections 16.

XVIII.

That beginning about the year 1899, and from thence hitherto, the defendant, Ethan Allen Hitchcock, as Secretary of the Interior, and the Commissioner of the Indian Office of the United States, and divers agents and servants under them, have set up on behalf of said La Pointe and other bands of Indians, or the members

thereof, a claim of interest or title in and to sections 16 aforesaid in the reservation townships aforesaid, paramount and adverse to the title of the State of Wisconsin, and have claimed and continue to claim that said sections 16 are still held by the United States in trust for said Indians to the same extent as other lands in said reserved townships, and have forbidden purchasers of such lands holding patents from the State to enter or make improvements or cut any timber thereon, and have thereby cast a cloud upon the title of the State and its grantees to said lands, and have interfered with, and are continuing to interfere with the use and enjoyment of the same by the owners thereof.

XIX.

That said lands so in dispute between the complainant, State of Wisconsin, and the defendant, Ethan Allen Hitchcock, as Secretary of the Interior of the United States, acting on behalf of said Indians, amount in the aggregate to about fifty-seven hundred and sixty (5760) acres of a market value of over fifty thousand (50,000) dollars. That by Chap. 95 of the Laws of the State of Wisconsin for the year 1903, approved April 20, 1903, the Attorney General of the State of Wisconsin was duly authorized to institute proceedings in this Court under the provisions of the act of Congress passed March 2, 1901, and hereinbefore referred to, to determine the rights of said State to what are commonly known as school lands, within any reservation or Indian cession within said State, where any Indian tribe claims any right to or interest in said lands, or to the disposition

thereof by the United States, and particularly to determine the title of the lands embraced within sections sixteen in the several townships constituting the present Bad River or La Pointe, and the Flambeau Indian reservations within said State.

In consideration whereof, and for as much as your orator is remediless in the premises, and can have no adequate relief except in this Court; and to the end therefore, that the defendant may, if he can, show why your orator should not have the relief prayed, and to the end that the defendant may make full, true, direct and perfect answer to the matters hereinbefore stated and charged, but not under oath, answer under oath being expressly waived; and to the end that the title of your orator to the lands hereinbefore described and referred to, and that the title to said lands be decreed to be in your orator, and to the end that the defendant, his officers, servants and employes, and the officers, servants and employes of the said department of which he is the official head, be restrained by injunction issuing out of this Court, from in any manner interfering with the use, possession or enjoyment of any part of said lands, or of interfering with the exercise of your orator, or its grantees, of acts of ownership of said lands.

May it please Your Honors to grant unto your orator not only a writ of injunction, conformably to the prayer of this bill, by a writ of subpoena issuing out of, and under the seal of this Honorable Court, directed to the defendant, Ethan Allen Hitchcock, Secretary of the Interior of the United States, commanding him under a certain penalty to be therein inserted, on a day certain to be and appear and answer (but not under oath) to

this bill of complaint, and to further stand to and abide such order and decree as shall be made herein agreeably to equity and good conscience.

And your orator will ever pray.

L. M. STURDEVANT,
Attorney General of Wisconsin.

T. W. SPENCE,
Of Counsel for State of Wisconsin.

UNITED STATES OF AMERICA, }
STATE OF WISCONSIN, } ss.
COUNTY OF DANE. }

Personally appeared before me the undersigned, L. M. Sturdevant, who being sworn in the foregoing cause, on oath, says he is the Attorney General of the State of Wisconsin, and as such directed the filing of the foregoing bill. That all of the facts set forth in said bill are true to the best of his knowledge, information and belief.

L. M. Sturdevant

Sworn to and subscribed before me this

21st day of February, A. D. 1905.

A. E. Smith

Notary Public
Wis.

EXHIBIT "A."

Lac De Flambeau Reserve.

[Area 52] square miles; treaty September 30, 1854; act of May 29, 1872 (17 Stat. 190).]

DEPARTMENT OF THE INTERIOR,

Office Indian Affairs, June 22, 1866.

SIR: Provision is made in the third section of the second article of the treaty of September 30, 1854, with the Chippewa Indians of Lake Superior and the Mississippi, for setting apart and withholding from sale a tract of land lying about Lac De Flambeau, "equal in extent to three townships, the boundaries of which shall be hereafter agreed upon or fixed by the President." (U. S. Statutes at Large, vol. 10, p. 1109.)

As the lands adjoining this lake are about to be offered at public sale, it is important that immediate action should be taken in withdrawing from sale lands necessary for this reservation. The following-described lands were included within a survey made to define the boundaries of this reservation in June, 1863, by A. C. Stunz, surveyor, under the direction of the Superintendent of Indian Affairs, viz.: Sections 5 and 6, township 39 north, range 6 east; sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, township 40 north, range 6 east; sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, township 41 north, range 6 east; all of township 41 north, range 5 east; sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, township 41 north, range 4 east; sections 1, 2, 11, 12, 13 and 14, township 40 north, range 4 east; sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18; township 40 north, range 5 east; the area of the same being 55,630.26 acres.

As this is a less amount of land than is provided for in the treaty for said reservation, I would respectfully recommend that in addition to the foregoing there be reserved from sale, until such time as the boundaries of the reservation are fully defined, the following described lands which are contiguous to those included in the survey above stated, viz.: Sections, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, township 40 north, range 5 east; sections 3, 10, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, township 40 north, range 4 east.

Very respectfully, your obedient servant,

D. N. COOLEY,

HON. JAMES HARLAN,

Commissioner.

Secretary of the Interior.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE.

Washington, June 27, 1866.

SIR: I have received your letter of the 26th instant inclosing a copy of a letter from the Commissioner of Indian Affairs, dated the 22d, requesting the withholding from sale of certain lands on account of the Lac De Flambeau band of Chippewas, under third section, second article, of the treaty of September 30, 1854.

In compliance with your instructions the necessary entries have been made in the records of this office, and the register and receiver at Stevens Point, Wis., have this day been directed to withhold from sale the land described in the Commissioner's letter. A copy of my letter is inclosed herewith.

Very respectfully, your obedient servant,

JOS. S. WILSON,

Acting Commissioner.

HON. JAMES HARLAN,

Secretary of the Interior.

[Inclosure.]

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE.

Washington, June 27, 1866.

GENTLEMEN: In pursuance of the order of the Secretary of the Interior of the 26th instant, the following-described lands will be withheld from settlement or sale on account of the Lac De Flambeau band of Chippewa Indians, to-wit: Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, township 40, range 4 east; sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, township 41, range 4 east; all of township 40, range 5 east; all of township 41, range 5 east; sections 5 and 6, township 39, range 6 east; sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, township 40, range 6 east; and sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, township 41, range 6 east.

These lands will be held in reservation for the purpose mentioned, and consequently will not be subject to settlement or sale, and you will so enter them on your plats and tract-books, and advise me when that has been done.

JOS. S. WILSON,

Acting Commissioner.

REGISTER AND RECEIVER,

Stevens Point, Wis.

DEPARTMENT OF THE INTERIOR,

Washington, D. C., June 28, 1866.

SIR: For your information I inclose herewith copy of letter of the Commissioner of the General Land Office, transmitting to this Department copy of the order of withdrawal from public sale of certain lands in the

vicinity of Lac De Flambeau, Wis., as directed by my letter of the 26th instant.

Very respectfully, your obedient servant,

JAS. HARLAN,

HON. D. N. COOLEY,

Secretary.

Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,

June 27, 1866.

Register and Receiver, Stevens Point, Wis.:

GENTLEMEN:

In pursuance of the order of the Secretary of the Interior of the 26th inst., the following described lands will be withheld from settlement or sale on account of the Lac De Flambeau band of Chippewas, to-wit:

Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, *Town 40, R. 4 E.* Sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, *Town 41, R. 4 E.*

All of Town 40, R. 5 E.

All of Town 41, R. 5 E.

Sections 5 and 6, *Town 39, R. 6 E.*

Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, *Town 40, R. 6 E.*, and Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31 and 32, *Town 41, R. 6 E.*

These lands will be held in reservation for the purpose mentioned, and consequently will not be subject to settlement or sale, and you will so enter them on your plats and tract books, and advise me when that has been done.

Very respectfully, etc.,

JOS. S. WILSON,

Actg. Commissioner.

EXHIBIT "B."

Lac Court Oreilles Reserve.

WASHINGTON, D. C., February 17, 1873.

SIR: I have the honor to inclose herewith, in accordance with your instructions dated December 18, 1872, a list of the lands selected as a permanent reservation for the Lac Court Oreille bands, Chippewas of Lake Superior, after consultation with the chiefs and headmen.

It is believed that the above-mentioned selection, while satisfactory to the Indians and fulfilling the spirit of the treaty which it is made, fully secures the interests of the General Government, as well as those of the State of Wisconsin.

It is of the greatest importance that a survey of the exterior boundaries of the reservation be made at the earliest practicable period. The boundary marks of the first survey are generally indistinct, and, besides, do not conform to the boundaries as now proposed.

Persons may trespass with little danger of discovery or hindrance now, but would be prevented if the boundaries of the reservation were distinctly defined and marked so that the Indians themselves could understand them.

Very respectfully, your obedient servant,

S. N. CLARK,

United States Indian Agent.

HON. H. R. CLUM,

Acting Commissioner of Indian Affairs,

Washington, D. C.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs, February 24, 1873.

SIR: I have the honor to submit herewith the follow-

ing selections of land for a permanent reservation for the Lac Court Oreilles bands of Chippewas, of Lake Superior, as recommended in a report to this office from Agent S. N. Clark, under date of the 17th instant, pursuant to instructions of December 18, 1872, amounting in the aggregate to 69,136.41 acres, viz.:

Description	Section	Township	Range	Area	Description	Section	Township	Range	Area
				Acres					Acres
SE. $\frac{1}{4}$ and NE. $\frac{1}{4}$	3	40	6	266.97	All.....	3	40	8	534.70
E. $\frac{1}{4}$ and SE. $\frac{1}{4}$	8	40	6	80.00	All.....	4	40	8	537.80
NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$, S.					All.....	5	40	8	532.00
$\frac{1}{4}$ of NE. $\frac{1}{4}$ and S.					All.....	6	40	8	453.62
$\frac{1}{4}$ of NW. $\frac{1}{4}$	9	40	6	200.00	All.....	7	40	8	554.77
NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$,					All.....	8	40	8	603.08
and NW. $\frac{1}{4}$	10	40	6	200.00	All.....	9	40	8	640.00
E. $\frac{1}{4}$ of NE. $\frac{1}{4}$, E. $\frac{1}{4}$					All.....	10	40	8	640.00
of SE. $\frac{1}{4}$ and SE. $\frac{1}{4}$					All.....	11	40	8	640.00
of SW. $\frac{1}{4}$ or lot 1...	17	40	6	198.26	All.....	12	40	8	640.00
SE. $\frac{1}{4}$	18	40	6	160.00	All.....	13	40	8	640.00
NE. $\frac{1}{4}$	19	40	6	166.90	All.....	14	40	8	640.00
All.....	20	40	6	579.68	All.....	15	40	8	640.00
NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	21	40	6	40.00	All.....	17	40	8	445.33
Lot No. 1.....	27	40	6	62.36	All.....	18	40	8	186.88
Lots 2 and 3.....	28	40	6	96.40	All.....	19	40	8	1.70
SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$ (lot					All.....	20	40	8	165.06
5 and SW. $\frac{1}{4}$ (lots					All.....	21	40	8	606.25
1, 6, and 7).....	28	40	6	165.24	All.....	22	40	8	608.30
All.....	29	40	6	450.77	All.....	23	40	8	594.60
S. $\frac{1}{4}$	30	40	6	248.24	S. $\frac{1}{4}$, NW. $\frac{1}{4}$, S. $\frac{1}{4}$ of				
All.....	31	40	6	439.03	NE. $\frac{1}{4}$ and NW. $\frac{1}{4}$				
NW. $\frac{1}{4}$ (lots 1, 2, and					of NE. $\frac{1}{4}$	24	40	8	600.00
3) and N. $\frac{1}{4}$ of NE.					All.....	25	40	8	639.99
$\frac{1}{4}$	32	40	6	193.95	All.....	26	40	8	640.00
All.....	33	40	6	562.03	All.....	27	40	8	635.10
All.....	34	40	6	584.21	All.....	28	40	8	442.55
SW. $\frac{1}{4}$ of SW. $\frac{1}{4}$,					All.....	29	40	8	507.18
(lots 1 and 2).....	35	40	6	38.07	All.....	30	40	8	462.78
Total in township.....				4,725.21	All.....	31	40	8	380.69
S. $\frac{1}{4}$, (lots 1, 2, 3, 4,					All.....	32	40	8	132.64
and 5).....	26	40	7	200.35	All.....	33	40	8	557.55
SE. $\frac{1}{4}$, (lots 1, and 2).....	27	40	7	131.60	All.....	34	40	8	640.00
E. $\frac{1}{4}$	34	40	7	284.59	All.....	35	40	8	640.00
All.....	35	40	7	457.88	All.....	36	40	8	520.95
Part of SE. $\frac{1}{4}$ (lots 2					Total in township.....				18,007.12
and 3) and SE. $\frac{1}{4}$					All.....	1	39	7	630.05
of SW. $\frac{1}{4}$ (lot 4)....	36	40	7	119.75	All.....	2	39	7	641.78
Total in township.....				1,194.17	N. $\frac{1}{4}$ of NE. $\frac{1}{4}$, S. $\frac{1}{4}$				
All.....	1	40	8	422.98	of SE. $\frac{1}{4}$ and NE.				
All.....	2	40	8	480.62	$\frac{1}{4}$ of SE. $\frac{1}{4}$	3	39	7	200.66
E. $\frac{1}{4}$, E. $\frac{1}{4}$ of SW. $\frac{1}{4}$					All.....	4	39	7	601.67
and NW. $\frac{1}{4}$ (lots 2					All.....	5	39	7	632.38
and 3).....	6	39	7	470.96	All.....	23	39	8	618.20
All.....	7	39	7	613.04	All.....	24	39	8	583.15
W. $\frac{1}{4}$, lots 1, 2, 3 and					All.....	25	39	8	640.00
SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$	8	39	7	534.83	All.....	26	39	8	398.20
					All.....	27	39	8	599.59
					All.....	28	39	8	640.00
					All.....	29	39	8	640.00
					All.....	30	39	8	637.86

Description	Section	Township	Range	Area	Description	Section	Township	Range	Area
NE. $\frac{1}{4}$ of NE. $\frac{1}{4}$ lots 1, 2, 3, 4, 5, and 6, and SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ of S. $\frac{1}{2}$, NE. $\frac{1}{4}$, S. $\frac{1}{2}$ of NW. $\frac{1}{4}$ and NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	9	39	7	315.61	S. $\frac{1}{2}$, NW. $\frac{1}{4}$, S. $\frac{1}{2}$ of NE. $\frac{1}{4}$, NW. $\frac{1}{4}$ of NE. $\frac{1}{4}$	31	39	8	595.86
All	10	39	7	600.00	All	32	39	8	640.00
All	11	39	7	640.00	All	33	39	8	640.00
All	12	39	7	640.00	All	34	39	8	640.00
All	13	39	7	640.00	All	35	39	8	636.00
All	14	39	7	640.00	All	36	39	8	640.00
All	15	39	7	640.00	Total in township				20,604.60
W. $\frac{1}{4}$, SE. $\frac{1}{4}$, W. $\frac{1}{4}$, NE. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of NE. $\frac{1}{4}$	17	39	7	600.00	All	4	38	8	738.92
All	18	39	7	609.76	All	5	38	8	761.30
All	19	39	7	611.76	All	6	38	8	780.49
All	20	39	7	640.00	All	7	38	8	683.50
All	21	39	7	640.00	All	8	38	8	640.00
All	28	39	7	640.00	S. $\frac{1}{2}$, NE. $\frac{1}{4}$, E. $\frac{1}{2}$ of NW. $\frac{1}{4}$ and SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$	9	38	8	600.00
All	29	39	7	640.00	All	17	38	8	640.00
N. $\frac{1}{2}$, NE. $\frac{1}{4}$ of SW. $\frac{1}{4}$, N. $\frac{1}{2}$ of SE. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$, W. $\frac{1}{2}$ of NW. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$	30	39	7	467.46	All	18	38	8	627.88
All	31	39	7	574.00	Total in township				5,422.69
All	32	39	7	640.00	All	1	38	9	791.26
All	33	39	7	640.00	All	12	38	9	640.00
Total in township				15,143.36	All	13	38	9	640.00
All	1	39	8	573.77	Total in township				2,071.26
All	2	39	8	625.58	Lot 2	1	39	9	48.60
All	3	39	8	618.90	All	24	39	9	640.00
All	4	39	8	617.88	All	25	39	9	640.00
All	5	39	8	401.37	All	36	39	9	640.00
All	6	39	8	118.87	Total in township				1,968.80
All	7	39	8	594.75					
All	8	39	8	520.10					
All	9	39	8	640.00					
All	10	39	8	640.00					
All	11	39	8	640.00					
All	12	39	8	640.00					
All	13	39	8	640.00					
All	14	39	8	640.00					
All	15	39	8	640.00					
All	17	39	8	640.00					
NW. $\frac{1}{4}$, N. $\frac{1}{2}$ of SW. $\frac{1}{4}$, N. $\frac{1}{2}$ of SE. $\frac{1}{4}$ and SE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ of SW. $\frac{1}{4}$, NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and W. $\frac{1}{2}$ of NW. $\frac{1}{4}$	18	39	8	352.22					
All	19	39	8	592.28					
All	20	39	8	640.00					
All	21	39	8	640.00					
All	22	39	8	640.00					
					SUMMARY.				
					Withdrawn Nov. 22, 1859	40	6		4,725.21
					Do	40	7		1,194.17
					Do	40	8		18,007.12
					Do	39	7		15,143.36
					Do	39	8		20,604.60
					Do	38	8		5,422.69
					Do	38	9		2,071.26
					Do	39	9		1,968.60
					Aggregate withdrawn				79,136.41

I now respectfully recommend that the remainder of lands withdrawn from market by orders from the General Land Office of November 22, 1859, and April 4, 1865, from which to select a permanent reservation for said Indians, be restored to market.

Very respectfully, your obedient servant,

H. R. CLUM,
Acting Commissioner.

THE HON. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, March 1, 1873.

SIR: I transmit herewith copy of a letter from the Acting Commissioner of Indian Affairs, dated the 24th ultimo, submitting selections of land for a permanent reservation for the Lac Court Oreilles band of Chippewa Indians of Lake Superior, amounting in the aggregate to 69,136.41 acres.

The recommendation of the Acting Commissioner that the remainder of lands withdrawn from market by orders from the General Land Office of November 22, 1859, and April 4, 1865, from which to select a permanent reservation for said Indians, be restored to market, is hereby approved, and you will be pleased to carry the same into effect.

Very respectfully, your obedient servant,

C. DELANO,
Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

EXHIBIT "C."



THE UNIVERSITY OF CHICAGO

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In the Supreme Court of the United States.

OCTOBER TERM, 1905.

THE STATE OF WISCONSIN, Complainant, v. ETHAN ALLEN HITCHCOCK, As Secretary of the Interior, Respondent.	}	Original No. 12.
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**The Demurrer of Ethan Allen Hitchcock, as
Secretary of the Interior, Respondent, to the
Second Amended Bill of Complaint of the
State of Wisconsin, Complainant.**

This respondent, Ethan Allen Hitchcock, as Secretary of the Interior, not confessing all or any of the matters and things in the complainant's bill of complaint contained therein to be true, in such manner and form as the same is therein set forth and alleged, does demur to said bill, and for cause of demurrer shows:

First: That the said complainant has not in and by its said bill of complaint shown any claim of

right, title, or interest whatsoever in or to the premises, or any part thereof, mentioned or described in said bill of complaint, or any acts or things done or threatened by respondent, which entitles said complainant to the relief prayed for by it in its said bill of complaint or any of said relief, or any relief whatever against respondent.

Second: That said complainant has not, in and by its said bill of complaint, made or stated such a case as does or ought to entitle it to any such relief as is thereby sought and prayed for, from or against this respondent.

Third: That said bill of complaint does not set forth or show that the complainant has any interest or title in or to the premises described in said bill of complaint, or any part thereof.

Fourth: That the said bill of complaint does not contain any matter of equity whereon this Court can ground a decree, or give to the complainant any relief against this respondent.

Fifth: That in and by complainant's said bill of complaint it does appear that this Court has no jurisdiction over the subject-matter of the action.

Wherefore, the respondent humbly demands the judgment of this Court whether he shall be compelled to make any further or other answer to the

said bill of complaint and prays to be hence dismissed with his costs and charges in this behalf most wrongfully sustained.

FRANK L. CAMPBELL,
Assistant Attorney-General,
Solicitor and Counsel for Respondent.